

## **TITLE 17.01 SHORT TITLE**

### Chapter 17.01 Short Title

- 17.0101 This Ordinance may be known and may be cited and referred to as "The Zoning Ordinance of Spink County, South Dakota," to the same effect as if the full titles were stated.

## **TITLE 17.02 DEFINITIONS**

### Chapter 17.02 Definitions

- 17.0201 General. For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall is mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

- 17.0201 For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Abandoned or Existing Farm Site. Must be a site that includes at least three of the following four criteria:

1. Contains an existing shelterbelt on at least two (2) sides;
2. Contains a usable well;
3. Presently contains outbuildings; and
4. Has an existing approach onto a public road or highway.

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

1. Is customary and clearly incidental to the principal building or principal use;

2. Serves exclusively the principal building or principal use;
3. Is subordinate in area, extent or purpose to the principal building or principal use served;
4. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
5. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

Acre(s), Gross, the Total Acreage of. (1) a sub-division; (2) a contiguous zoning district; or (3) a planned development. Computations shall include all public right-of-ways except: (1) boundary streets of which only one-half of the right-of-way shall be used in any computation; and (2) publicly owned land used for community facilities such as parks, schools, libraries, etc.

Acre(s) Net. Same as Gross Acres but excluding all public right-of-ways and publicly owned land utilized for community facilities.

Automobile, Abandoned. Any motor vehicle, or portion thereof, which when operated on a public roadway is required to be registered by the State of South Dakota, whose registration has been expired for a period of one (1) month or more. Notwithstanding the foregoing definition, a motor vehicle or portion thereof stored within a permitted building or structure shall not be considered to be an abandoned automobile.

Automobile Service Station. Building and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:

1. Sale and servicing of spark plugs, batteries, and distributors and distributor parts;

2. Tire servicing and repair, but not recapping or re-grooving;
3. Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearing, mirrors, and the like;
4. Radiator cleaning and flushing; washing and polishing, sale of automotive washing and polishing materials;
6. Greasing and lubrication;
7. Providing and repairing fuel pumps, oil pumps, and lines;
8. Minor servicing and repair of carburetors;
9. Adjusting and repairing brakes;
10. Emergency wiring repairs;
11. Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
12. Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for automobile service station customers, as accessory and incidental to principle operation;
13. Provision of road maps and other informational material to customers; and
14. Provision of restroom facilities.

Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than formally found in automobile service stations. An automobile service station is neither a repair garage nor a body shop.

Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement. Any floor below the first story of a building unless construed to be a story as defined therein.

Billboard. See Sign, Off-Site.

Boarding House. Any dwelling which provides sleeping and/or cooking and/or eating facilities for more than three (3) units but less than ten (10) unrelated individuals. A rooming house or furnished rooming house shall be deemed to be a boarding house. Sleeping rooms shall not be used for more than two (2) persons per room. Such dwellings shall not be open to transients.

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

Building. The word "building" includes the word structure and is a structure, which is entirely separate from any other structure by space or by walls in which there are no communicating doors or windows or similar openings. A principle building including covered porches and paved patios, is a building in which is conducted the principle use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principle building on the lot on which the same is situated.

Commission. The Spink County Planning and Zoning Commission.

Concentrated Animal Feeding Operation (CAFO). A large animal feeding operation that is subject to the terms and conditions of the SDG-010000 permit. In the case of swine, it is subject to the terms and conditions of the SDG-0440000 permit.

Conditional use. Use of property in a zone for a particular purpose that is allowed under conditions set forth in the zoning ordinance. Also see "special exception".

County Board. The Spink County Board of Commissioners.

Density. Pertaining to the number of dwelling units per net acre or gross acre, as indicated for the appropriate zoning district. Residential District density shall not be exceeded for new subdivisions nor exceeded for re-subdivision of existing platted land.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling operations located within the area of special flood hazard.

Drive-in Restaurants or Refreshment Stands. Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling, Mobile Home. See Mobile Home.

Dwelling, Multiple Family. A residential building designed for or occupied by two (2) or more families living independently of each other and doing own cooking in said building. The number of families in residence not to exceed the number of dwelling units provided.

Dwelling, Single Family. A detached residential dwelling unit other than a mobile home designed for and occupied by one (1) family.

Efficiency Unit. A dwelling unit having only one (1) room exclusive of bathroom, water closet compartments, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted in a multi-family dwelling.

Employee(s). In regard to off-street parking requirements, employees mean all that work in the enterprise including owners.

Family. An individual or two or more persons, related by blood or marriage, living together as a single-housekeeping unit in a dwelling unit, in each instance with no more than two non-related people being housed in the same dwelling unit, but provided further that domestic servants employed on the premises may be housed on the premises without being counted as a family or families. The word "family" shall not include groups occupying nursing homes, group houses, fraternity houses, sorority houses, dormitories, barracks; however, a portion of a building in this category

may consist of one or more dwelling units occupied by a family or families.

Farm. A tract of land together with fields, buildings, farm implements, animals, and personnel for the intended purpose of producing crops of which livestock feeding may be a part of.

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

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM). The official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

Floodway. 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 accumulatively increasing the water surface.

Floor Area. The sum of all gross horizontal area of the several floors of a building and its accessory buildings on the same lot excluding basement floor areas and non-enclosed portions of the structure. All dimensions shall be measured between exterior faces of walls.

Habitable Floor. 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." Basements and crawl spaces are not to be considered habitable floor space.

In the case of lake front property, if no more than fifty (50%) percent of the foundation is covered or surrounded by dirt, it may constitute habitable floor.

High watermark. Point one (1') foot above where permanent vegetation begins.

Home Occupation. An occupation conducted on the premises provided that:

1. The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than thirty (30%) percent of the floor area of the dwelling shall be used in the conduct of the home occupation.
2. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
3. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses of the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises.
4. No more than one other person, in addition to members of the family residing on the premises shall be engaged in such occupation.
5. 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 one (1) square foot in area, non-illuminated and mounted flat against the wall of the principle building.

Improved Road. Roads with at least a gravel base and utilized regularly by more than one (1) household.

Junkyards. A junkyard is a place where unrecyclable waste having no economic value, or waste, which is recyclable but has no chance of being recycled is deposited.

Kennels. Any lot, structure, or premise where four (4) or more dogs and/or ten (10) or more cats four (4) months of age are kept.

Loading Space, Off-Street. Adequate space, logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used such as trucks, tractors, trailers, etc., and accessible to such vehicles at all times. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot. A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one main building together with its accessory buildings and open spaces and parking spaces required by this Ordinance, and having its principle frontage upon a street.

Lot Depth. The mean horizontal distance between the front lot line and rear lot line of a zoning lot. In the case of a corner lot, the lot depth is the greater of the mean horizontal distances between the front lot lines and respective side lot opposite each.

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

Lot of Record. A lot or parcel of land that has access to a street, the deed of which has been recorded in the Office of the County Register of Deeds prior to the adoption of this revised Ordinance and may be used for the uses in the district in which it is located except as hereinafter specified.

Lot Types. Any lot within the jurisdiction of this Ordinance shall be one of the following types: (also see Appendix F)

1. Corner Lot. A corner lot is 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 one hundred thirty-five (135°) degrees.



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

3. Through Lot/Double Frontage Lot. A through lot is defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Lot width. The mean horizontal distance between side lot lines measured at right angles to the lot depth.

Mobile Home. Any occupied vehicle used or so considered as to permit it being used as a conveyance on the public streets or highways and duly licensed as such, and shall include self-propelled or non-self-propelled vehicles so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such a manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons. Nothing in this definition shall be construed so as to include prefabricated, precut residences or those manufactured in sections or parts away from the site and transported thereto for erection, provided that when completely erected, said prefabricated, precut, or manufactured residences shall be on a permanent foundation and in all respects comply with the Uniform Building Code, 1967 Edition and Amendments thereto, recommended by the International Conference of Building Officials.

Mobile Home Park.. Any premises where two or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for two or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended wholly or in part, for the accommodation of automobile transients.

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

Parking Space, Off-Street. For the purposes of this Ordinance, an off-street parking space should consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, so that any automobile may be parked and un-parked without moving another.

For purposes of rough computation, off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the city.

Performance Standards. It is a criterion established for the purposes of:

1. Assigning proposed industrial uses to proper districts; and
2. Making judgements in the control of noise, odor, smoke, toxic matter, vibration, fire and explosive hazards, or glare generated by, or inherent in, uses of land or buildings.

Planned Development. A means of developing or redeveloping existing larger parcels or combinations of smaller parcels of land within the jurisdiction of this Ordinance, by allowing more flexibility in design to produce a more aesthetic and/or efficient environment, and which through safeguards incorporated elsewhere in this Ordinance will assure that any such planned development will be in harmony and compatible with the intent of this Ordinance and the appropriate zoning district of this Ordinance.

More specifically, a planned development is land which is under:

1. Single ownership: or
2. Unified control, and wherein such land is to be utilized for ultimate use by:
  - a. Single ownership, or
  - b. unified control, or
  - c.
  - d. Separate ownership and unified control, or
  - e.
  - d. Separate ownership without unified control, and whereon such land is designed for use as one building or a group of buildings and whereon such land there may or may not provisions for multiple purpose uses.

Any such planned development shall be compatible to the Comprehensive Plan for Spink County, South Dakota. Provided further, if the proposed development is only for a portion of the contiguous landholdings of the applicant(s), then a simple, schematic plan showing anticipated uses, densities, shall be submitted with application for any planned development.

Principal use. The primary or predominant use of any lot.

Public Utility Substation. An area where facilities are provided for the distribution of telephone, radio, communications, water, gas, and electricity. These facilities shall be permitted as a conditional use in the various zoning districts subject to conditions, which will assure their harmony, especially aesthetically with the nature of the respective district.

Recreational Vehicles (RV). A vehicular, portable structure built on a chassis, either self-propelled or non-self-propelled, designed to be used as a temporary dwelling for travel and/or recreational purposes having a body width not exceeding eight (8') feet.

Right of Way. Right of way shall be defined as the area that intersects a road that extends into a piece of property,

whether residential, commercial, or industrial, either owned by a private resident, city, county, state, business, or corporation, that can be accessed by individuals, businesses, city, county, and state personnel to conduct road or utility work.

The setback on county roads shall be thirty three (33') feet, measured from the center of the road extending out directly on one side of the road. The total setback is sixty six (66') feet, when measured on both sides of the road. A building or other structure shall not be placed or constructed within the setback area.

A building or other structure may only be placed or constructed after one hundred (100') feet from where the road right-of-way ends.

In the case of farming, no farmer shall utilize the area within the right of way without written permission from the county. If farming takes place within the right of way, the county, or other person or group on official business, may, without permission from the farmer in violation, conduct business within the right of way, even if it disturbs the farming that is taking place.

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

Setback/Setback Line. That line that is the required minimum distance from any lot line that establishes the area within which the principal structure must be erected or placed. Unless otherwise noted differently under each district, the setback shall be the following:

|              |        |                              |
|--------------|--------|------------------------------|
| Small Towns  | Front: | 20 ft from lot line          |
|              | Side:  | 7 ft                         |
|              | Rear:  | 20 ft                        |
| Agricultural | Front: | 75 ft from road right-of-way |
|              | Side:  | 20 ft                        |
|              | Rear:  | 20 ft                        |

Lake: Front/Road: 15 ft  
Side: 7 ft  
Back/Lake: 30 feet or average setback in alignment with the adjoining property main structure from the normal high watermark. Boathouses, piers, & docks are exempted

Commercial Buildings located on lots adjacent to a Residential District shall conform on the adjacent side with the Residential side yard requirement.

Highway  
Commercial Front: 75 ft from lot line  
Side: 25 ft  
Rear: 25 ft

Industrial Front: 75 ft  
Side: 25 ft  
Rear: 25 ft

Shelterbelts/Fieldbelts. A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock, residences, recreation areas, and wildlife. Shade and ornamental trees are not considered as shelterbelts.

Sign. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in area bearing only property numbers, post office box numbers, names of occupants of premises, or other identification or premise not having commercial connotations;
2. Flags and insignias of any government. Except when displayed in connection with commercial promotion;
3. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;

4. Integral decorative or architectural feature of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

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

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

Sign, On-Site, Interior. A sign on the interior of a structure relating its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises. As long as any such sign is not normally viewable from the exterior of the premises, it shall not be regulated by this Ordinance.

Special Exception. A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to the 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 district as special exceptions, if specific provisions for such special exception is made in this ordinance.

Street Line. The lot line abutting right-of-way Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground; among other things, structures including buildings, mobile homes, walls, signs, and billboards.

Truck or Equipment Terminal. Any lot, structure or premises used for the parking or storage of capital equipment such as trucks, trailers, or other like equipment, over 3/4 ton capacity.

Utility Substation. *See Public Utility Substation.*

Variance. A variance is a relaxation of the terms of the zoning ordinance here 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 this 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-conformities in the zoning district. This is NOT to be confused with a special exception.

Yard. A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30") inches above the grade of the lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard Front. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30") inches and no hedge or other vegetation shall be permitted which materially impedes vision across such yard up to ten (10') feet. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute, therefore, a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

Corner Lots. In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two (2) frontages, the administrative official shall determine the front yard requirements, subject to the following limitations:

1. At least one front yard shall be provided having the full depth required generally in the district; and
- 2.
3. No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the fore most 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 yard lines shall be parallel.

Yard, Side. A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street.

In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yard remaining after full and half depth front yards have been established shall be considered side yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the side lot line.

Yard, Rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum



width required by the district regulations with its inner edge parallel with the rear lot line.

Yard, Special. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed to perform like functions as a side yard, but next to a lot line so located or oriented that neither the term side yard nor the term rear yard clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be placed to the adjoining lot(s), with due consideration to the orientation and placement of structures and buildable areas thereon.

## **TITLE 17.03 JURISDICTION**

### Chapter 17.03 Jurisdiction

- 17.0301     Jurisdiction. The provisions of this Ordinance shall apply within the unincorporated areas of Spink County excluding area inside the city limits of Redfield; also including the incorporated areas of Ashton, Brentford, Conde, Doland, Frankfort, Hitchcock, Mellette, Northville, Tulare, and Turton, South Dakota, as well as the unincorporated town of Athol, South Dakota, as established on the map entitled "The Official Zoning Map of Spink County, South Dakota."
- 17.0302     Provisions of This Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions require a greater width or size of yards, courts, or other spaces, or require a lower height of building or less number of stories or require a greater percentage of lot to be left unoccupied, or impose other higher standards that are required, in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance require a greater percentage of lot to be left unoccupied, or impose other higher standards that are

required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

## **TITLE 17.04 OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION**

### Chapter 17.04 Official Zoning Map and Boundary Interpretation

17.0401     General. The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Title 17.04 enacted by Revised Ordinance No. 17 of Spink County, South Dakota," together with date of the adoption of this revised Ordinance.

17.0402     Zoning Map Changes. If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of County Commissioners with an entry on the Official zoning Map as follows: "On /Date/, by official action of the Board of County Commissioners, the following change/changes were made in the Official Zoning Map: /brief description of nature of change/," which entry shall be signed by the Chairman of the Board of County Commissioners and attested by the County Auditor. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said Map.

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

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 17.2302.

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

17.0403     Zoning Map Replacement. In the event that the Official zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official zoning Map, but no such correction shall have the effect of amending the original Official zoning Map, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted /date of adoption of zoning map being replaced/ as part of Revised Ordinance No. 17 of Spink County, South Dakota." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

17.0404     Rules for Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines;

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the County Planning Commission and/or Board of Adjustment shall interpret the district boundaries:
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the County Planning Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50') feet beyond the district line into the remaining portion of the lot.

## **TITLE 17.05 APPLICATION OF DISTRICT REGULATIONS**

### Chapter 17.05 Application of District Regulations

- 17.0501     General. The regulations set forth within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.
- 17.0502     Zoning Affects Every Building and Use. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- 17.0503     Performance Standards. No building or other structure shall hereafter be erected or altered:
1. To exceed the height or bulk;
  2. To accommodate or house a greater number of families;
  3. To occupy a greater percentage of lot area; and
  4. 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.
- 17.0504     Open Space, Off-Street Parking, and Loading Space. No part of a yard, other open space, 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.
- 17.0505     Yard and Lot Reduction Prohibited. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

- 17.0506      Unclassified or Unspecified Uses. May be permitted as special exception by the Board of zoning Adjustment after the County Planning and Zoning Commission has made a review and recommendation provided that such uses are similar in character to the principle uses permitted in the district.

## **TITLE 17.06 ESTABLISHMENT OF DISTRICTS**

### Chapter 17.06      Establishment of Districts

- 17.0601      Planning Commission Recommendations. It shall be a purpose of the Spink County Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Board of County Commissioners shall not hold public hearings or take action until it has received the final report of the County Planning Commission.
- 17.0602      Districts Created. For the purposes of zoning, there are hereby created 7 types of districts by which the jurisdictional area defined in Title 17.03 shall be divided:

|      |                        |
|------|------------------------|
| (AG) | Agricultural           |
| (LF) | Lake Front Residential |
| (RU) | Rural Urban            |
| (C)  | Commercial             |
| (HI) | Highway Commercial     |
| (I)  | Industrial             |
| (FP) | Flood Plain            |

## **TITLE 17.07 AGRICULTURAL DISTRICT (AG)**

### Chapter 17.07      Agricultural District

- 17.0701      Statement of Intent. The intent of the Agricultural District is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to

preserve land best suited to agricultural uses and land in which the natural environment shall be continued; to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

17.0702     Permitted Principle Uses and Structures. The following principle uses and structures shall be permitted in the Agricultural District:

1. Any form of agriculture including the raising of crops, horticulture, animal husbandry, and poultry husbandry and including commercial feedlots; (see Appendix D)
2. A family farm unit and their normal accessory buildings including mobile homes;
3. Railroad track right-of-way;
4. Single-family/two family dwellings and their normal accessory buildings, including mobile homes; and
5. Home occupations.

17.0703     Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the Agricultural District:

1. Roadside produce stands in conjunction with a bona fide farm operation on the premises;
2. Artificial lake(s) of three acres or less; and
4. Horticultural endeavors including greenhouses and nurseries.

17.0704     Special Exceptions. After notice and appropriate safeguards, the Board of Adjustment/Planning Commission may permit the following as special exceptions in the (AG) Agricultural District:

1. Fairgrounds, racetracks, and amusement parks;
2. Utility substations
3. Airports:

4. Golf courses, country clubs and golf driving ranges;
5. Amphitheaters, stadiums, drive-in movies, arenas, and field houses;
6. Go-cart tracks, riding stables, playfields, athletic fields, bowling, swimming pools, and automobile parking;
7. Public parks, public recreational areas, churches, and schools;
8. Operation and maintenance terminal for truck and other equipment;
9. Sand, gravel, or quarry operation;
10. Sanitary landfill sites in accordance with South Dakota Environmental Protection Agency (EPA) regulations;
11. Cemeteries;
12. Kennels and veterinary operations;
13. Farm-related bulk commodities;
14. Farm-related agriculture business or agriculture processing;
15. Wildlife propagation and game management;
16. Signs, per Title 17.15;
17. High voltage lines of 343 KV or greater; and
18. Hunting Lodges and Bed & Breakfast Inns.
19. Lagoons
20. Landfills

17.0705 Minimum Lot Requirements. The minimum lot width shall be not less one hundred fifty (150') feet. The minimum lot area shall be one (1) acre providing the density requirement is met.



In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

*\*\*\*A plat is required whenever twenty (20) acres or less are split out of a larger parcel. The plat is then required to be filed in the Director of Equalization Office according to Title 17.17, Chapters 17.1709 & 17.1710. (Effective 3-07-06)*

- 17.0706     Minimum Setback Requirements. All structures shall be set back not less than one hundred (75') feet from all improved public roads measured from road right-of-way. The minimum sideyard and rearyard set back shall each be twenty (20') feet.
- 17.0707     Minimum Shelterbelt Setback. Shelterbelts consisting of one or more rows when parallel to the right-of-way shall be set back in accordance with Appendix C. Replacement trees in existing shelterbelts are exempt from minimum shelterbelt requirements as long as its nonconformance is not increased.
- 17.0708     Approaches. Along all County roads, approaches shall be a minimum of five hundred (500') feet apart. Each side of the road shall constitute a separate road. Before placing or removing any approach the Highway Superintendent must be contacted to see if it is appropriate. Once the Highway Superintendent has been contacted he/she should notify the Zoning Administrator about the approach, for the possible issuance of a building permit, if needed.
- 17.0709     Service Roads. Service roads may be required at the discretion of the Department of Transportation (DOT) and the Planning Commission.

## **TITLE 17.08 LAKE FRONT RESIDENTIAL (LF)**

### Chapter 17.08 Lake Front Residential (LF)

17.0801     Intent. The intent of the Lake Front Residential District (LF) is to provide for residential uses of shoreline land without altering natural surroundings of the district.

17.0802     Permitted Principle Uses and Structures.

1. Single-family residential usage including mobile homes but excluding mobile home parks.

17.0803     Permitted Accessory Uses and Structures.

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

17.0804     Special Exceptions. After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Board of Adjustment/Planning Commission may permit as special exceptions in Lake Front Residential District any use that is consistent with the use intended with this district.

17.0805     Minimum Lot Requirements. Each lot shall have a depth of not less than one hundred (100') feet and shall have a shoreline frontage width of not less than twenty-five (25') feet. All lots without shoreline frontage shall have a minimum width of twenty-five (25') feet and a minimum depth of one hundred (100') feet.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

All new platted lots shall have a depth of not less than one hundred (100') feet. The minimum lot road frontage shall not be less than twenty (20') feet in width.

17.0806     Minimum Setback Requirements. Each structure shall be setback not less than thirty (30') feet or the average setback in alignment with the adjoining property main structure from the normal high watermark. The road or front yard setback shall not be less than fifteen (15') feet from the property line, not from public right-of-way or center of road.

Each side yard shall not be less than seven (7') feet. Additional tiers of lots that do not have shoreline frontage shall have a frontage width of not less than twenty five (25') feet and a depth of not less than one hundred (100') feet. Variances will be granted for setbacks only with special circumstances.

- 17.0807     Building or Structure Depth. Any building or structure except boathouses, piers, and docks shall be placed at an elevation such that the lowest floor, including a basement, is three (3') feet above the highest known water level. In locations where sufficient data on known high water levels are not available, the elevation of the line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize before construction is begun. The high water mark will be defined as that point when the water no longer flows over the dam.

Cabins/residences, sheds, and enclosed porches will all need to meet the thirty (30') foot or average setback requirements. Plot plans will be required to be submitted to the Equalization Office for approval prior to a building permit being issued. Building permits must be obtained before any construction begins. Decks will be exempt at this point.

All structures moved into or within the Lake Front Residential zone will require a moving permit, and the property will be posted, neighbors within one hundred fifty (150') feet will be notified and a public hearing will be held at the Spink County Planning and Zoning Commission meeting.

For those properties where variances have been approved for setbacks closer than allowed in the ordinance the County will be held harmless.

- 17.0808     Private Sewage Disposal Systems. All private sewage disposal systems will comply with Department of Environmental Protection Agency regulations, and their updates as promulgated in Chapter 34;04;01 General Authority 46-25-107; Law Implemented 46-25-28 through 46-25-47.

All Sewage disposal systems are to be installed by a certified contractor and on file with the County Auditor or Zoning Administrator. Individuals will be required to submit a plot

plan of the septic system to the Spink County Planning and Zoning Commission, for approval prior to installation. If found to be in violation, it would be reported to the Department of Health – Department of Environmental and Natural Resources, Environmental Protection Department.

- 17.0809     Permits Required. No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the County Zoning Administrator. Additionally, all structures moved into the LFR District must be brought up to code within one (1) year of permit issuance or shall be removed by the owner of such property. Failure of compliance shall constitute a violation of this ordinance.
- 17.0810     Service or Access Roads. Service or access roads may be required at the discretion of the Department of Transportation (DOT) and the Planning Commission.
- 17.0811     Sewage Disposal Regulations. It is the responsibility of the landowner to conform with State and Federal sewage disposal regulations. The landowner must contact the Department of Environment and Natural Resources (DENR) for the proper regulations.

## **TITLE 17.09 RURAL-URBAN (RU)**

### Chapter 17.09 Rural-Urban (RU)

- 17.0901     Intent. The intent is to provide an environment in small communities where strict application of specified uses and activities are not practical; an intermixing of activities is allowed provided that totally incompatible uses to those already present are not undertaken or those which produce excessive odor, smoke, toxic matter, or vibration.
- 17.0902     Permitted Principle Uses and Structures.
1. Single-family/multi-family dwellings and their normal accessory building, including mobile homes;
  2. Noncommercial horticulture; and
  3. Railroad track right-of-way.

17.0903 Permitted Accessory Uses and Structures.

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

17.0904 Special Exceptions. After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Board of Adjustment/Planning Commission may permit as a special exception any use, which is consistent with the intent of this district. Special Exceptions may include:

1. Fairgrounds, racetracks, and amusement parks;
2. Utility substations;
3. Recreational activities, whether public or private;
4. Churches and schools;
5. Operation and maintenance terminal for trucks and other equipment;
6. Cemeteries;
7. Kennels and veterinary establishments;
8. Signs, per Title 17.15;
9. Wildlife propagation and game management; and
10. Hunting Lodges and Bed & Breakfast Inns.

17.0905 Minimum Lot Requirements. The minimum lot area shall be seven thousand two hundred (7,200) square feet for single-/two-family dwellings. The minimum lot areas for multi-family dwellings in excess of two units shall be seven thousand two hundred (7,200) square feet and an additional one thousand eight hundred (1,800) square feet for each unit in excess of the first two. The minimum lot width shall be fifty (50') feet and the minimum lot depth shall be one hundred twenty (120') feet.

- 17.0906     Minimum Yard Requirements. For all Principle permitted uses and structures, there shall be a front yard of not less than a depth of twenty-five (20') feet. There shall be a rear yard of not less than a depth of twenty (20') feet. Each side yard shall not be less than seven (7') feet as measured from the outermost edge of structures. All distances are measured from the edge of road right of way. Yard requirements for special exceptions shall be determined by the Planning Commission.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

## **TITLE 17.10 COMMERCIAL DISTRICT (C)**

### Chapter 17.10 Commercial District

- 17.1001     Intent. The intent of the Commercial District (C) is to provide a commercial area for those establishments serving the general shopping needs of the trade area, and in particular, those establishments customarily oriented to the pedestrian shopper. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities, and to provide neighborhood commercial convenience areas.
- 17.1002     Permitted Principle Uses and Structures. The following Principle uses and structures shall be permitted in the Commercial District (C):
1. Retail sale of: groceries, fruits, vegetables, dairy products, meats, poultry products, fish and seafoods; baked goods, candies, nuts, confectionery items, beer, wine, and distilled alcoholic beverages; heating and plumbing equipment; paint, glass and wallpaper; electrical supplies; hardware; dry goods and general merchandise; tires, batteries and accessories; marine and aircraft accessories; wearing apparel and accessories; furniture, home furnishings and equipment; household appliances; radios, televisions, and music supplies; drugs and

proprietary medicines; antiques and second-hand merchandise; books and stationery; sporting goods and bicycles; jewelry; flowers and other plant materials; cigars and cigarettes; newspapers and magazines; cameras and photographic supplies; gifts, novelties, and souvenirs; optical goods;

2. Finance, insurance and real estate services;
3. Laundering, dry cleaning and dyeing services; photographic services including commercial services; beauty and barber services; apparel repair, alteration, and cleaning pickup service; shoe repair services;
4. Business services, excluding any warehousing and storage services;
5. Automobile washing; electrical repair; radio and television repair, and watch, clock and jewelry repair;
6. Professional services;
7. Governmental services;
8. Educational services;
9. Bus passenger terminals and taxicab transportation;
10. Churches, synagogues, and temples; welfare and charitable services; business associations, professional membership organizations; labor unions and similar labor organizations; and civic, social and fraternal associations.
11. Eating and drinking places;
12. Communication and utility uses;
13. Public buildings and grounds;
14. On-site signs;
15. Automobile service stations;
16. Hotels and motels;
17. Automobile parking;

18. Libraries, museums; art galleries, planetaria, aquariums; historic and monument sites; motion picture theaters, legitimate theaters; auditoriums; exhibition halls, penny arcades; gymnasiums and athletic clubs; ice skating, roller skating; and bowling; and

19. Parks.

17.1003 Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the Commercial District (C):

1. Signs, as regulated by Title 17.15;
2. Off-street parking; and
3. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this district.

17.1004 Special Exceptions. After the provisions relating to special exceptions have been fulfilled, the Board of Adjustment/Planning Commission may permit as special exceptions in the Commercial District (C):

1. Other trade and service uses which are similar to the permitted Principle uses and which are in harmony with the intent of this district:
2. Structures containing both commercial and residential uses; and
3. Implements, automobile sales and services.

17.1005 Minimum Lot Requirements. The minimum lot area shall be two thousand five hundred (2,500) square feet. The minimum lot width shall be twenty-five (25') feet. The minimum lot depth shall be one hundred (100') feet.

17.1006 Minimum Yard Requirements. All buildings located on lots adjacent to a Residential District shall be located so as to conform on the adjacent side with the side yard requirements for the adjacent Residential District.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided



in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

## **TITLE 17.11 HIGHWAY COMMERCIAL DISTRICT**

### Chapter 17.11 Highway Commercial District (HC)

17.1101     Intent. The intent of the Highway Commercial District (HC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to a major vehicular circulation route due to the nature of the merchandise handled and the display space required, particularly items requiring expansive display area such as motor vehicles, trailers, and farm implements; the method of transport required of the purchaser for the merchandise handled, particularly goods customarily traded in bulk such as lumber or feed requiring access for the customer to the sales area; primary dependence upon vehicular, as opposed to pedestrian, access such as drive-in facilities and all types of automotive and farm implement services; or the clientele toward which the establishments are primarily oriented, particularly travelers on the highway.

17.1102     Permitted Principle Uses and Structures. The following Principle uses and structures shall be permitted in Highway Commercial Districts (HC):

1. Retail sale of: lumber and other building materials, farm equipment, motor vehicles, recreational vehicles, marine craft, aircraft, mobile homes, trailers, farm and garden supplies, fuel and ice;
2. Wholesale sales of: motor vehicles and automotive equipment; drugs, chemicals, and allied products; dry goods and apparel; groceries and related products; electrical goods; hardware, plumbing, heating equipment, and supplies; machinery, equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products, furniture and home furnishings, lumber and construction materials.
3. Funeral and crematory services and supplies;

4. Farm products warehousing and storage;
5. Refrigerated warehousing;
6. Food lockers, provided, that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors;
7. Household goods warehousing and storage;
8. General warehousing and storage;
9. Automobile repair and services;
10. Re-upholstery and furniture repair services;
11. Contract construction services;
12. Bus garaging and equipment maintenance;
13. Motor freight terminals;
14. Motor freight garaging and equipment maintenance;
15. Automobile parking;
16. Libraries; museums, art galleries; planetaria; aquariums; historic and monument sites; auditoriums; exhibition halls; and penny-arcades
17. Miniature golf, gymnasiums and athletic clubs, swimming pools, tennis courts, ice skating, roller skating;
18. Parks;
19. Theaters; stadiums; drive-in movies; arenas and field houses; race tracks; fairgrounds; amusement parks, golf driving ranges; go-cart tracks; golf courses and country clubs; riding stables; play fields and athletic fields; bowling; and swimming pools;
20. Communication and utility uses;
21. Drive-in eating and drinking places; restaurants;
22. Automobile service stations;

23. Motels;

24. Livestock sales establishments, buying stations.

17.1103     Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in Highway Commercial District (HC):

1. Signs, as regulated by Title 17.15; and
2. Accessory uses normally appurtenant to the permitted Principle uses and structures when established in conformance within the space limits of this district.

17.1104     Minimum Lot Requirements. The minimum lot area shall be ten thousand (10,000) square feet. The minimum lot width shall be one hundred (100') feet.

17.1105     Minimum Yard Requirements. There shall be a front yard of not less than a depth of one hundred (75') feet. Each side yard and rear yard shall be no less than twenty-five (25') feet as measured from the outermost edge of the structure.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

17.1106     Service or Access Roads. Service or access roads may be required at the discretion of the Department of Transportation (DOT) and the Planning Commission.

## **TITLE 17.12 INDUSTRIAL DISTRICT (I)**

### **Chapter 17.12 Industrial District**

17.1201     Intent. The intent of the Industrial District (I) is to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations which are compatible to adjoining districts. Such uses generally require open storage of materials or goods either before, during or after the manufacturing process, but are of a low noise or

nuisance level. Land designated for this district should be located in relation to the thoroughfare network of the community as well as rail and air if required, and designated so as to not disrupt normal traffic flow. Planned Industrial Parks are encouraged in this district.

17.1202     Permitted Principle Uses and Structures. The following Principle uses and structures shall be permitted in the Industrial District (I):

1. Building materials' sales;
2. Cartage and express facilities;
3. Contractors' offices, shops and yards—such as building, cement, electrical, heating, ventilation and air conditioning, masonry, painting, plumbing, refrigeration and roofing;
4. Fuel and bulk sales;
5. Greenhouses, wholesales;
6. Highway maintenance shops and yards;
7. Packing and crating;
8. Printing and publishing;
9. Public utility and service uses;
10. Accessory uses, incidental to and on the same zoning lot as Principle uses;
11. Wholesaling of all commodities, except commercial explosives, automotive and other mechanical equipment salvage;
12. Office;
13. Fruit and vegetable concentration, preservation, and preparation;
14. Grain elevators, grain and mill products;
15. Poultry and small game dressing and packing

16. Blacksmith shop, body and fender works; bottling works; wholesale; bus terminal;
17. Cabinet shop; carpenter shop; carpet or rug cleaning; clothes cleaning and dyeing;
18. Auto and truck rentals;
19. Public garage;
20. Machine shops, metal processing and fabrication;
21. Parking lot; public buildings; public transit yard;
22. Sand blasting; service station; signs, outdoor advertising; sign painting; stone monument works; stone masonry shop;
23. Veterinary;
24. Novelties;
25. Optical goods;
26. Photographic equipment;
27. Rubber and/or metal stamps;
28. Venetian blinds, window shades and awnings;
29. Food and kindred processing, wholesale; confections, honey extractions;
30. Dairy products;
31. Toiletries;
32. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: canvas, cellophane, cloth, cork;
33. Feathers, felt, fiber, fir;
34. Glass and plastics;
35. Signs, per Title 15; and

36. Leather.

- 17.1203     Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in Industrial District (I):
1. Caretaker and watchmen quarters; and
  2. Medical facilities accessories to an industrial use.
- 17.1204     Special Exceptions. After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Board of Adjustment/Planning Commission may permit as special exceptions in the Industrial District, any use, which is consistent with the intent of this district.
- 17.1205     Performance Standards. All uses and structures in an Industrial District should use the performance standards in Appendix B as guidelines.
- 17.1206     Minimum Lot Requirements. The minimum lot area shall be twenty-five thousand (25,000) square feet. The minimum lot width shall be one hundred twenty-five (125') feet.
- 17.1207     Minimum Yard Requirements. There shall be a front yard of not less than a depth of one hundred (75) feet. Each side yard and backyard shall not be less than twenty-five (25') feet as measured from the outermost edge of structures.
- In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.
- 17.1208     Service or Access Roads. Service or access roads may be required at the discretion of the Department of Transportation (DOT) and the Planning Commission.

## **TITLE 17.13 FLOODPLAIN DISTRICT (FP)**

### Chapter 17.13 Floodplain District

- 17.1301     Intent. The intent of the Floodplain District (FP) is to delineate reasonable high watermarks within the jurisdiction of this Title. For the reasons of health, safety, and the general, welfare, certain safeguards are needed to: 1) protect human life and health; 2) minimize the expenditure of public money for costly flood control projects; 3) insure that potential buyers are notified that property is in an area of special flood hazard; and 4) ensure that those who occupy the areas of special flood hazard assume, responsibility for their actions.
- 17.1302     Flood Hazard Boundary Map Utilized as Basis for FP District Designation. The FHBM is the basis utilized for the FP zone designation. Any shaded areas on the FHBM constitute a FP District. These maps can be located at the office of the Director of Equalization.
- 17.1303     Permitted Principle Uses and Structures. There will be no Principle uses and structures allowed in the Floodplain (FP) District.
- 17.1304     Special Exceptions. After notice and appropriate safeguards, the Planning Commission may permit as special exceptions:
1. Mineral extractive operations, including, but not limited to: coal, oil, rock, gravel, and the related processing operations, storing, and sale of such minerals.
  2. May be used to meet area requirements of adjoining districts if on the same parcel;
  3. Drive-in theater;
  4. More than one (1) artificial lake of three (3) acres or less;
  5. Artificial lake(s) of three (3) or more acres, depending on recommendation of qualified agricultural engineer;
  6. Agriculture and custody agricultural buildings and structures.

- 17.1305     Minimum Lot width. The minimum lot width shall be fifty (50') feet. The minimum front yard depth shall be thirty (30') feet. The minimum rear yard depth shall be twenty-five (25') feet. The minimum side yard width shall be seven (7') feet.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

- 17.1306     Base Flood Data; Elevations Required. The Zoning Administrator, in making his/her determination of the minimum elevation of the dwellings first habitable floor and/or the degree of flood proofing, shall obtain, review, and reasonably utilize any base flood elevations data from Federal, State, or other sources. Since actual base flood elevations are not available, the administrator shall require and record:

1. 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;
2. The actual elevation (in relation to mean sea level) to which the new or substantially improved structure has been flood-proofed;
3. Flood-proofing certifications by a registered, professional engineer or architect meeting the criteria of 17.1307 (2) and (3) and 17.1308 1 and 2; and
4. These records for public inspection.

- 17.1307     General Standards. In all areas of special flood hazards, the following general standards are required: (see Appendix A)

1. Anchoring
  - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  - b. All mobile homes shall be anchored to resist flotation, collapse, or lateral movements by



providing over-the-top and frame ties to ground anchors. Special requirements shall be that:

- (1) Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations with mobile homes less than fifty (50') feet long requiring one additional tie per side;
- (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty (50') feet long requiring one additional tie per side;
- (3) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
- (4) Any additions to the mobile home be similarly anchored.

## 2. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

## 3. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b. 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 the flood water; and

- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

17.1308     Specific Standards. In all areas of special flood hazards, the following specific standards are required:

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation, as determined by the best available data;
2. New construction and substantial improvement of any commercial, industrial, or other nonresidential or nonagricultural 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:
  - a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water,
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and
  - c. Be certified by a registered, professional engineer or architect that the standards of this subsection are satisfied.
3. Mobile homes shall be anchored in accordance with Appendix A.

17.1309     Floodway Restrictions. There shall be no new construction, substantial improvements, fill, or other developments unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge and all other State and Federal laws are adhered to.

17.1310     Warning and Disclaimer of Liability. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by

man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Spink County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

## **TITLE 17.14 SUPPLEMENTARY DISTRICT REGULATIONS**

### Chapter 17.14 Supplementary District Regulations

- 17.1401     Visibility at Intersections. On a corner lot in all Residential Districts, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½') and ten (10') feet above the centerline grades of the intersecting streets in the area formed by a radius of twenty (20') feet from the intersection of street curbs or street edges.
- 17.1402     Erection of More than One Principle Structure on a Lot. In any district, more than one structure housing a permitted or permissible Principle use may be erected on a single lot, provided, that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.
- 17.1403     Exceptions to Height Regulations. The height limitations contained in this Title shall not apply to spires, belfries, cupolas, antennas, ventilators, domes, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy; provided, that the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) regulations are met.
- 17.1404     Structures to Have Access. Every building here-after erected or moved shall be on a lot adjacent to public access and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

- 17.1405     Parking and Storage of Certain Vehicles. Not more than two (2) automotive vehicles of any kind or type without current license plates and inoperable shall be parked in any zoning district for longer than thirty (30) days; except those licensed dealers permitted by special exception. After thirty (30) days the vehicle must be licensed, or moved so it is not in the public's eye sight (i.e. backyard, inside garage, hidden by fence, etc.
- 17.1406     Minimum Off-Street Parking and Loading Requirements. Off-street motor vehicle parking and loading space shall be provided on any lot on which any of the indicated structures and uses are hereafter established. Such space shall be provided with vehicular access to a street or alley. For the purpose of computing the number of parking spaces available in a given area, the formula of two hundred fifty (250) square feet per parking space shall be required. Minimum off-street parking and loading requirements, which shall be applicable in all zoning districts except Commercial (C) to the structures and uses indicated, shall be set forth in the Schedule of Minimum Off-Street Parking and Loading Requirements, hereby adopted by reference and declared to be a part of this Ordinance. If minimum off street parking and loading space, required in said schedule, cannot be reasonable provided on the same lot on which the Principle structure or use is conducted in the opinion of the County Planning Commission, the Commission may permit such space to be provided on other off-street property, provided, that such space lies within four hundred feet of the entrance to such Principle structure or use.
- 17.1407     Approaches. Along all county roads, approaches shall meet the following criteria:
1. Have no two (2) approaches closer than five hundred (500') feet apart;
  2. Not be located on the crest of a hill nor other locations where sight visibility will be impaired;
  3. Have a slope of four (4) to one (1);
  4. Have a minimum driving width of twenty-four (24) feet; and
  5. The approval of the County Highway Superintendent.

## **TITLE 17.15 SIGNS AND BILLBOARDS**

### Chapter 17.15 Signs and Billboards

17.1501 General. Signs along State Highways are subject to DOT Regulations. Signs are a permitted accessory use in all districts along County or Township roads after a sign application permit has been approved by the Zoning Board and is subject to the following regulations: (Effective 3-07-06)

1. For definitions, see Spink County Zoning Ordinance #17, Title 17.02.
2. This title shall not apply to any display of directional signs, street name signs, or other signs which have been authorized and erected by a governmental body.
3. A sign is a structure or a part of a structure for the purpose of applying yard and height regulations.
4. Signs are prohibited within the public right-of-way except that the council may grant a special permit for temporary signs and decoration to be placed on a right-of-way for a period of time not to exceed ninety (90) days, subject to the laws of South Dakota and all titles listed in the Spink County Zoning Ordinance #17.
5. Signs and their superstructures within the Commercial (C) District may exceed into the public right-of-way a distance not to exceed fifteen (15") inches when flat against the building.
6. Illuminated flashing signs shall not be permitted within the "AG", "LF", and "RU" districts.
7. Illuminated signs or devices giving off an intermittent, steady, or rotating beam, consisting of a collection or concentration of rays of light shall be permitted except carbon, arc lights which may be located and used on private property in the "C", "HC", and "I" districts for a period not to exceed three (3) days.

8. Illuminated signs shall be permitted when such signs are accessory to permitted nonresidential uses.
9. One name plate sign per lot in the "C", "HC", and "I" district. The sign shall not be more than fifty (50%) percent in size than that of a normal sign that is permitted in either the "C", "HC", or "I" district.
10. For the purpose of selling or leasing property, a sign or signs not in excess of eight (8) square feet of sign may be placed within the front yard of such property to be sold or leased. Such sign or signs shall not be less than ten (10') feet from the front lot line unless flat against the structure.
11. For the purpose of selling or promoting a residential project of six (6) or more dwelling units, a sign not to exceed one hundred (100) square feet may be erected upon the project site and maintained until each of the units has been rented or leased. At such time the sign shall be removed and future signs will be subject to Title 17.15.
12. The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding twelve (12") inches shall constitute advertising space, or should such letter or graphics be mounted directly on a wall or fascia or in such a way as to be without a frame the dimensions for calculating the square footage shall be the area extending six (6") inches beyond the periphery area formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof.

Each surface utilized to display a message or to attract attention shall be measured as a separate sign, and symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls awnings, free standing structures, suspended by balloons or kites or on persons, animals, or vehicles shall be considered as a sign to be included in calculating the overall square footage.

13. Signs existing after the effective date of the ordinance codified in this title which do not conform to the regulations set forth in this title are a nonconforming use

or structure and as such shall be under the regulations set forth in the Spink County Zoning Ordinance Title 17.16. All signs prior to the Spink County Zoning Ordinance #17 will be "grand-fathered" in. The superstructure for mounting of signs and such signs shall not be attached to a roof or project above the roof of a building not more than six (6') feet.

14. Temporary Signs or banners when authorized by the County Planning Commission.
15. No sign shall be placed directly under any power line. All signs will need to be at least six (6') feet on either side of the power line.

17.1502 Signs in the "RU" and "LF" Districts. Within these districts the following signs are permitted:

1. One double surfaced name plate sign for each dwelling which shall not exceed one (1) square foot in area per surface. Such sign may indicate the name of the occupation, if such exists.

Yard lights and name plate signs in RU and LF districts provide such lights are three (3') feet or more from all lot lines and subject to Title(s) 17.08 and 17.09 in the Spink County Zoning Ordinances #17. Lights for illuminating parking; provide where necessary provided that glare is not visible areas or yards for safety and security purposes may be provided where necessary provided that glare not visible from the public right-of-way or adjacent residential property and not more than three (3') foot candles of light intensity are present at the residential property line.

2. One double surfaced name plate sign for each dwelling group of six or more units, which shall not exceed six (6) square feet in area per surface. Such sign may indicate the names and addresses of the buildings or project, or may be a directory for occupants or state any combination of the above information.
3. One double surfaced name plate sign for each permitted use other than residential which shall not exceed six (6) square feet in area per surface plus one-half (1/2) square foot per surface for each one (1') foot of setback greater than twenty (20') feet.

4. Symbols, statues, sculptures, and integrated architectural features on non residential building may be illuminated by floodlights, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
5. Signs Over Show Windows or Doors of a non-conforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2') feet in height and ten (10') feet in length.
6. Name, Occupation, and Warning Signs not to exceed two (2) square feet located on the premises of a business.
7. Bulletin Boards for public, charitable, or religious institutions shall not exceed thirty-five (35) square feet in area located on the premises.
8. Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal affixed flat against a structure.

17.1503 Signs in the "C" District. Within the "C" district, name plate signs, business signs, and advertising signs are permitted subject to the following regulations:

1. Within the Commercial district, the aggregate square footage of square feet for each front foot of building abutting on sign space per lot shall not exceed the sum of two (2) public right-of-ways fifty (50") feet or more in width with the least width of a corner lot fronting on a public right-of-way being the front for purposed of this title plus one (1) square foot for each front foot of side yard abutting on a public right-of-way fifty (50") feet or more in width. No individual sign surface shall exceed sixty (60) square feet in area, nor shall two or more smaller signs be so arranged and integrated as to cause a sign surface greater than sixty (60) square feet.

17.1504 Signs in the "HC", "I", and "AG" Districts. Within the "HC", "I", and "AG" districts name plate signs, business signs, and advertising signs are permitted subject to the following regulations:



1. The aggregate square footage of sign space per lot shall not exceed the sum of six (6) square feet per front foot of building, plus three (3) square feet per front foot of property not occupied by a building, plus one (1) square foot for each foot of public right-of-way fifty (50') feet or more in width abutting the side of the structure plus a ten (10%) percent increase.
2. The least width of such corner lot shall be the front for purposes of this title, individual sign surface shall exceed two hundred fifty (250) square feet.
3. Wall Signs placed against the exterior walls of buildings shall not extend more than six (6") inches outside of a building's wall surface; shall not exceed five hundred (500) square feet in area for anyone premise, and shall not exceed twenty (20') feet in height above the mean centerline street grade.
4. Projecting Signs fastened to, suspended from, or supported by structures shall not exceed one hundred (100) square feet in area for anyone premise; shall not extend more than six (6') feet into any required yard; shall not extend more than six (6') feet into any public right-of-way; shall not be less than ten (10') feet from all side lot lines; shall not exceed a height of twenty (20') feet above the mean centerline street grade, and fifteen (15') feet above the driveway or an alley.
5. Ground Signs shall not exceed twenty (20') feet in height above the mean centerline street or grade; shall meet a minimum of one-half (1/2) of the yard requirements for the district in which it is located; shall not exceed one hundred (100) square feet on one side nor two hundred (200) square feet on all sides of anyone premise.
6. Roof Signs shall not exceed ten (10') feet in height above the roof; shall meet all the yard and height requirements for the district in which it is located; and shall not exceed three hundred (300) square feet on all sides for anyone premise.
7. Combinations of any of the above signs shall meet all the requirements for the individual sign.

17.1505     Billboard Signs. Billboard signs shall be permitted in accordance with regulations outlined only in areas specified in the following sections:

1.     Within HC and I use district; for a lot upon which a principle use other than billboards exist, any portion of the aggregate square footage of sign space for such lot may be allocated to billboard use at the rate of four (4) square feet of billboard surface to one (1) square foot of aggregate square footage of sign space to permit billboards, but no single billboard shall exceed two hundred fifty (250) square feet in area and no billboard shall be less than twenty (20') feet from the front lot line.
2.     Also within the C, HC, and I district, the aggregate square footage of advertising space per lot when a billboard is the principle use shall not exceed ten (10) square feet per front foot of lot on a public right-of-way which is fifty (50') feet or more in width.
3.     Billboards shall be subject to all yard requirements within the LF and RU districts. Billboards shall not be less than twenty (20') feet from the front lot line.

17.1506     Sign as Obstruction/Deception. Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

17.1507     Nonconforming Signs. Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform with the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure if the sign changes or is modified, and must conform to the standards set in Title 17.15.

Where a billboard is illuminated, the source of light shall not shine upon any part of an existing residence, or into a residential district or into a street.

**TITLE 17.16 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, NONCONFORMING USES OF STRUCTURES AND PREMISES, AND NONCONFORMING CHARACTERISTICS OF USES**

Chapter 17.16 Nonconformance

17.1601 Intent. Within the districts established by this Ordinance or amendments that may later be adopted, there exists (a) lots, (b) structures, (c) uses of land and structures, and (d) characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment; it is the intent to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as ground for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this revised Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

17.1602     Nonconforming Lots of Records. 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 at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fail to meet requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of other yard requirements shall be obtained only through action of the Planning and Zoning Board.

17.1603     Nonconforming Uses of Land (or Land with Minor Structures Only). Where at the time of passage of this revised Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding one thousand (\$1,000) dollars, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, no extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
4. No additional structure not conforming to the requirement of this Ordinance shall be erected in connection with such nonconforming use of land.

17.1604     Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

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

17.1605     Nonconforming Uses of Structures or of Structures and Premises in Combination. If the nonconforming use involving individual structures with a replacement cost of one thousand (\$1,000) dollars or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the nonconforming use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or

amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;

3. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
4. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of more than one (1) year (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
5. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to replacement cost at the time of destruction.

17.1606      Uses under Special Exception Provisions Not Non-conforming Uses. Any use which is permitted as a special exception in a district under the terms of this Ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

## **TITLE 17.17 ADMINISTRATIVE PROCEDURE AND ENFORCEMENT- BUILDING PERMITS AND APPROACH**

### Chapter 17.17 Administration and Enforcement

17.1701      Administration and Enforcement. An administrative official who shall be known as the Zoning Administrator and who shall be designated by the County Board of Commissioners, shall administer and enforce this Ordinance. He/she may be provided with the assistance of such other persons as the County Board of Commissioners may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

17.1702     Building Permits Required. Building permits are required in the following instances:

1. For any new or improvements on or to any structure/building in which the market value of the improvement, including labor either done by self or hired labor and materials exceeds twenty-five hundred (\$2,500) dollars: (Effective 3-07-06)
2. For structures that are being moved regardless of the cost incurred in moving the structure. (Effective 3-07-06)
3. For any structure or building, regardless of cost, if additional land or area is required for it to be sited on. No building or structure, which meets anyone of the above criteria shall be erected, partially erected, moved, added to or structurally altered without a permit therefor issued by the zoning Administrator.

No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance, unless he received a written order from the County Planning Commission in the form of an administrative review, special exception, or variance as provided by this Ordinance.

17.1703     Application for Building Permit. All applications for building permits shall show the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; 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 conformance with, and provide for the enforcement of this Ordinance.

One cardboard copy of the building permit shall be given to the applicant by the Zoning Administrator after he/she has marked the application as approved and attested to same by his/her signature on such copy. If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The original and one copy of the application, similarly marked, shall be retained by the zoning Administrator. The issuance of a building permit shall, in no case, be construed as waiving any provisions of this Ordinance.

- 17.1704     Expiration of Building Permit. If the work described In any building permit has not begun within ninety (90) days from the date of issuance or is not completed within two (2) years from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a renewed building permit has been obtained at no additional cost unless substantial changes have been made to the first building permit.
- 17.1705     Construction and Use to be as provided in Applications and Permits. Building permits issued on the basis of applications approved by the Zoning Administrator authorized only the use, arrangement, and construction set forth in such approved application and no other use, arrangement, or construction. Use, arrangement, or construction at variance which is unauthorized shall be deemed a violation of this Ordinance, and punishable as provided by Title 17.23.
- 17.1706     Building/Zoning Permit Fees. All building/zoning permits shall be obtained by application of the owner or builder. It is the owner's and builder's responsibility to obtain a permit prior to construction on property, owned or leased. The fee for a building permit will be ten (\$10) dollars, refundable only if the request for a building permit is denied.



- 17.1707     Municipalities May Issue Building Permit. Only the Finance Officer of the City of Doland may issue building permits to residents of such respective community, unless any such Finance Officer prefers the County to issue the permit. All building permits will be forwarded to the Spink County Zoning Administrator, along with any money received from the applicant. If an applicant is denied a building permit from the municipality, the applicant may appeal to the Zoning Board/Zoning Administrator. No other Municipality shall be allowed to issue building permits unless authorized by the Spink County Zoning Administrator.
- 17.1708     Building Permit in Conspicuous Places. All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction or work described.
- 17.1709     Matters Coming Before Board of Zoning Adjustment, Fees. Fees for matters coming before the Board of Zoning Adjustment shall be as follows:

| <u>Matter:</u>                                          | <u>Fee:</u>                      |
|---------------------------------------------------------|----------------------------------|
| Building Permits                                        | \$10.00                          |
| Application for Variance from Zoning Ordinance          | \$30.00                          |
| Application for Special Exception from Zoning Ordinance | \$30.00                          |
| Application for Moving in Structure at Cottonwood Lake  | \$30.00                          |
| Petition for Rezoning                                   | \$50.00                          |
| Plat Application Fee                                    | \$70.00 +                        |
|                                                         | (\$1.00 per                      |
| acre                                                    |                                  |
|                                                         | Over one                         |
| acre)                                                   |                                  |
| Register of Deeds Plat Fee                              | \$10.00 for                      |
|                                                         | 1 <sup>st</sup> page of plat and |
|                                                         | \$5.00 for each page after       |
|                                                         | 1 <sup>st</sup>                  |
| Special Meeting Fee                                     | \$300.00                         |

- 17.1710     Selling Landowner Must Plat Land. Any Landowner(s) selling part of his/her property, building a subdivision, or dividing his/her property into smaller pieces is responsible for getting the plat prepared (whether by an engineer or other service), paying for the plat information, and turning the appropriate plat documents over to the County to be filed. This is

required whether or not the land in question is rezoned or not.

Minimum Lot Requirements:

A plat is required whenever Twenty (20) acres or less are split out of a larger parcel as required in Chapter 17.07.(Effective 3-7-06)

The process and regulations that are required for this are listed below as such:

Application Fee.

The landowner and the Equalization Office must fill out Appendix Q. The landowner shall then pay to the Equalization Office all application fees as stated on Appendix Q.

Plat Application.

The landowner or his/her authorized agent shall submit to the Planning Commission the following:

1. Four (4) copies of the plat at a uniform size of fifteen (15") inches by twenty-six (26") inches or eight and one-half (8-1/2") inches by fourteen (14") inches or eleven (11") inches by fourteen (14") inches. All plat submittals shall be in conformance with the design standards set forth in Appendix E, Article III of this Ordinance and shall include the following information:
  - a. Proposed name of the new section, which shall not duplicate previously filed plat names.
  - b. A date, scale, north point, and key map showing the general location of the proposed section in relation to surrounding area.
  - c. Names and addresses of the developer, engineer, surveyor, or landscape architect responsible for the survey or design.
  - d. Location of boundary lines in relation to section or quarter section lines, including a legal description of the property.

- e. Existing contours wherever five (5') feet of deviation occurs.
  - f. Location, width, and name of existing or platted streets and alleys, railroads, utilities, rights-of-way or easements, parks, and other public grounds with accurate dimensions in feet, interior angles, length of radii and/or arcs of all curves and existing structures within the proposed section and their relationship to the same of adjacent sections or subdivisions.
  - g. Layout, numbers, and approximate dimensions of lots and the number of each block, if provided
  - h. Location and description of all monuments.
  - i. Location by section, township, range, county, and state, including descriptive boundaries of the subdivision, based on an accurate traverse giving angular and linear dimensions that must be mathematically close.
  - j. Notarized certificate signed and acknowledged by all parties having any titled interest in or lien upon the land subdivided consenting to the plat, including dedication of all streets, alleys and public ways, parks or other public grounds, or lands for charitable, religious, or educational purposes, if any, and granting easements.
  - k. Certificate signed by the County Treasurer stating that there are no regular or special taxes due or delinquent against the property described in the plat.
  - l. Certificate signed by the surveyor stating that all the information on the plat is correct and completed by the surveyor.
  - m. One copy of any private restriction or covenants affecting the subdivision or any part thereof.
1. Any subdivision of land containing two or more lots, no matter how described, must be submitted to the Planning and Zoning Commission for approval. Any plat submitted for approval shall not

be acted upon by the County Commissioners without affording a hearing thereon, notice of the time and place of hearing shall be listed on Appendix Q. Also any plat submitted for approval shall require the signature of the Spink County Auditor.

2. The plat shall be approved or disapproved within sixty (60) days after submission thereof; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the County Commissioners on demand; provided, however, that the applicant for the approval may waive this requirement and consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the County Commissioners.
3. The approval of a plat by the County Commissioners shall not be deemed to constitute or affect any acceptance by the municipality or public of the dedication of any street or other ground shown on the plat.

When any map, plan, plat, or re-plat is tendered for filing in the office of the Register of Deeds, it shall be the duty of any such officer to determine whether such proposed map, plan, plat, or re-plat is or is not subject to the provisions of the Ordinance and whether the endorsements required by this Ordinance appear thereon, and no Register of Deeds or deputy shall accept for record, or record, any such map, plan, plat, or re-plat unless and until the same shall have been approved by the County Commissioners

## **TITLE 17.18 COUNTY PLANNING COMMISSION/ZONING BOARD OF ADJUSTMENT**

Chapter 17.18 County Planning Commission/Zoning Board of Adjustment

- 17.1801 Proceedings of the County Planning and Zoning Commission. The County Planning and Zoning Commission shall serve as a Board of Adjustment as provided by SDCL 11-2-25.1. The County Planning and Zoning Commission shall adopt rules necessary for the conduct of its affairs and keeping with the provisions of this Ordinance. The County Planning and Zoning Commission shall keep a record of all proceedings. Meetings shall be held at the call of the Zoning Administrator and at such other times as the Planning Commission may determine. The Zoning Administrator, or in his/her absence

the Director of Equalization, may administer oaths and compel the attendance of witnesses. All meetings shall be open to public. The County Planning and Zoning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission shall adopt from time to time, sub-regulations as it may deem necessary to carry appropriate provisions of this Ordinance into effect.

- 17.1802     Appeals, Hearings, Notice. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days prior to the newspaper publication of building permits by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time (within 30 days) for the hearing of the appeal, give public notice thereof, as well as, due notice to the parties in interest, and decide the same within a reasonable time (within 30 days). Upon the hearing, any party may appear in person or by agent or by attorney.

## **TITLE 17.19 BOARD OF ADJUSTMENT--POWERS AND DUTIES**

### Chapter 17.19 Board of Adjustment--Powers and Duties

- 17.1901     Administrative Review. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator based on or made in the enforcement of any zoning regulation relating to the location or soundness of structures or to interpret any map.

17.1902     Special Exceptions, Conditions Governing Applications, and Procedures. The Board of Adjustment shall have power to hear and decide, in accordance with the provisions of this Ordinance, requests for special exceptions or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. A special exception shall not be granted by the Board of Adjustment unless and until:

1. A written application for a special exception is submitted, indicating the chapter of this Ordinance under which the special exception is sought and stating the grounds on which it is requested. Notice shall be given in the legal newspaper once a week for at least two (2) successive weeks before the public hearing by the Planning and Zoning Board.
2. Notice shall be sent to the adjacent land-owners, the property owners requesting the special exception, and the local government entity by certified letter at least seven (7) days prior to a hearing on the request. The notice will be sent by the Planning and Zoning Administrator.
3. The public hearing shall be held. Any party may appear in person or by agent or by attorney.
4. The Board of Adjustment shall make a finding that it is empowered under the chapter of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
5. Before any special exception shall be issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - a. Ingress and egress to property and proposed structures thereon with particular reference to

automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

- b. Off-street parking and loading areas where required, with particular attention to the items in "a" above and the economic, noise, glare, or other effects of the general exception on adjoining properties and properties generally in the district;
  - c. Refuse and service areas, with particular reference to the items in "a" and "b" above;
  - d. Utilities, with reference to locations, availability, and compatibility;
  - e. Screening and buffering with reference to type, dimensions, and character;
  - e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
  - g. Required yards and other open spaces; and
  - h. General compatibility with adjacent properties and other property in the district.
6. Upon application, pursuant to the provisions of this Ordinance, conditions and safeguards may be imposed as are appropriate. These conditions may specify time limits or address other matters pertinent to the issuance of a special exception. If conditions and safe-guards established are not met, the special exception shall be declared unlawful and constitute a violation. Classified special exceptions shall be authorized only if they meet the following criteria.
- a. Fire Hazard. The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire-fighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.

- b. Noise. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- c. Vibration. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.
- d. Air Pollution. The use shall not involve any pollution of air by fly ash, dust, vapors, or other substances which are harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.
- e. Odors. The use shall not involve any malodorous gas or matter which is discernible to any adjacent lot or property.
- f. Glare. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public streets, road, or highway.
- g. Traffic Hazard. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion. No single use or density of development should generate traffic volumes on any public street in excess of one hundred (100) vehicle trips per day per acre.
- h. Sewer and Water. The use shall not involve an activity which will substantially increase the burden on the water supply or cause sewage treatment problems unless provision is made for necessary adjustments.
- i. Character of Neighborhood. The use shall not involve any activity not in character with the majority of the uses in the neighborhood unless, by design, setback, nature of operation, and other devices, the character of the neighborhood will be maintained.



- j. General Welfare of the Community. The use shall not involve any activity which adversely affects the general welfare to the community.

17.1903      Variances, Conditions Governing Application and Procedures. The Board of Adjustment shall have the power, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, as such relief may be granted without substantially impairing the intent and purpose of this Ordinance.

1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of this Ordinance should produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of conveniences, profit, and caprice.
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned or the intended use of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
3. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating that special conditions for a variance and circumstances exist which are peculiar to the land,

structure, or building involved and which are not applicable to the lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same districts under the terms of this Ordinance; that special conditions and circumstances do not result from the action of the applicant; that granting the variance requested 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.

4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.
5. Notice of public hearing shall be given as in 17.1902 and the adjacent landowners will be sent notice by the Planning and Zoning Administrator. The public hearing shall be held and any party may appear in person, or by agent or by attorney; the Board of Adjustment shall make findings that the requirements of 17.1902 have been met by the applicant for a variance; 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 the land, building, or structure; the Board of Adjustment shall further make a finding that the general purpose and intent of this Ordinance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Title 17.23 of this Ordinance.
7. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any

use expressly or by implication prohibited by the terms of this Ordinance in said district.

17.1904      Rezoning, Conditions Governing Applications, and Procedures. The Board of Adjustment shall have power to hear and decide, in accordance with the provisions of this Ordinance, requests for rezoning or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether rezoning should be granted; and to grant rezoning with such conditions and safeguards as are appropriate under this Ordinance, or to deny rezoning when not in harmony with the purpose and intent of this Ordinance. A rezoning request shall not be granted by the Board of Adjustment unless and until:

1. A Petition for Rezoning is submitted, to the Zoning Administrator, indicating the chapter of this Ordinance under which the rezoning is sought and stating the grounds on which it is requested. An individual landowner may petition the board to change the zoning of all or any part of the landowner's property. Notice shall be given in the legal newspaper once a week for at least two (2) successive weeks before the public hearing by the Planning and Zoning Board.
2. Notice shall be sent to the adjacent/abutting land-owners and the local government entity by certified letter at least seven (7) days prior to a hearing on the request and shall state the date, time, and place of the hearing. The notice will be sent by the requesting landowner, showing proof of notice to the Zoning Administrator. Property is considered abutting even though it may be separated from the property of the petitioner by a public road or highway.
3. The public hearing shall be held by the Spink County Planning and Zoning Commission. Any party may appear in person or by agent or by attorney.
4. The Board of Adjustment shall make a finding of facts that it is empowered under the chapter of this Ordinance described in the application to grant the rezoning, and that the granting of the rezoning will not adversely affect the public interest.

5. Before any rezoning shall be issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual rezoning requests and that satisfactory provisions and arrangements have been made concerning the following to the Spink County Commissioners, where applicable:
  - f. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - g. Off-street parking and loading areas where required, with particular attention to the items in "a" above and the economic, noise, glare or other effects of the general exception on adjoining properties and properties generally in the district;
  - h. Refuse and service areas, with particular reference to the items in "a" and "b" above;
  - i. Utilities, with reference to locations, availability, and compatibility;
  - e. Screening and buffering with reference to type, dimensions, and character;
  - j. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
  - g. Required yards and other open spaces; and
  - i. General compatibility with adjacent properties and other property in the district.
6. Upon application, pursuant to the provisions of this Ordinance, conditions, and safeguards may be imposed as are appropriate. These conditions may specify time limits or address other matters pertinent to the issuance of a rezoning request. If conditions and safe-guards established are not met, the rezoning request shall be declared unlawful and constitute a violation. Classified

rezoning shall be authorized only if they meet the following criteria.

- a. Fire Hazard. The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire-fighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.
- b. Noise. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- c. Vibration. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.
- d. Air Pollution. The use shall not involve any pollution of air by fly ash, dust, vapors, or other substances which are harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.
- e. Odors. The use shall not involve any malodorous gas or matter which is discernible to any adjoining lot or property.
- f. Glare. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public streets, road, or highway.
- g. Traffic Hazard. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion. No single use or density of development should generate traffic volumes on any public street in excess of one hundred (100) vehicle trips per day per acre.
- h. Sewer and Water. The use shall not involve an activity which will substantially increase the burden on the water supply or cause sewage

treatment problems unless provision is made for necessary adjustments.

- i. Character of Neighborhood. The use shall not involve any activity not in character with the majority of the uses in the neighborhood unless, by design, setback, nature of operation, and other devices, the character of the neighborhood will be maintained.
  - j. General Welfare of the Community. The use shall not involve any activity which adversely affects the general welfare to the community.
- 7. Notice is given by the County Auditor in the legal newspaper once a week for at least two (2) successive weeks before a hearing of the County Commission.
  - 8. County Commissioners hold the rezoning hearing and take action based upon the finding of facts recommended by the Spink County Planning and Zoning Commission. If approved by the County Commissioners, it becomes effective twenty (20) days after a summary of the action is published in the County's legal newspaper.
  - 9. The Spink County Planning and Zoning Administrator files the certified copy of any maps or charts with the Register of Deeds.
  - 10. Any changes to zoning district boundaries must be made in accordance with 17.0402, Zoning Map Changes.

\*It is advisable for the notice to list BOTH the Planning Commission meeting date and the required County Commission meeting dates. This way, if there is any opposition, it will surface at the Planning Commission level and may effect their (Planning Commission) recommendation to the full board of County Commissioners.

It is also to be noted that the party responsible for getting the plat prepared (whether by an engineer or other service), if needed, is responsible for turning the appropriate plat documents over to the County to be filed.

- 17.1905     Board of Adjustment has Power of Zoning Administrator on Appeals Reversing Decision of Zoning Administrator. In exercising the above mentioned power, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- 17.1906     Vote Required to Reverse or to Grant Special Exception or Variance. The concurring vote of three-fourth (3/4) of the full membership of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the application on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

## **TITLE 17.20 APPEALS**

### Chapter 17.20 Appeals

- 17.2001     Duties of Zoning Administrator County Planning and Zoning Commission/Board of Zoning Adjustment, County Commissioners and Courts on Matters of Appeals. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be presented first to the Zoning Administrator and any person or persons or any board, taxpayer, department, board or bureau of the County aggrieved by any decisions of the Zoning Administrator and that such questions shall be presented to the County Planning and Zoning Commission/Board of Zoning Adjustment only in appeal from the decisions of the Zoning Administrator, and that recourse from the decisions of the County Planning and Zoning Commission/Board of Zoning Adjustment shall be to the County Board of Commissioners and recourse from their decision to the courts as provided by law.

It is further the intent of this Ordinance that the duties of the Board of County Commissioners shall include the procedure for deciding such questions as stated in this Chapter under this Ordinance, the Board of County Commissioners shall have the duties: (1) of considering and adopting or rejecting proposed amendments or the repeal of

this Ordinance as provided by law, and (2) of being recourse in questions of appeal.

- 17.2002     Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the County Planning and Zoning Commission/Board of Zoning Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the County Planning and Zoning Commission/Board of Zoning Adjustment or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

## **TITLE 17.21 SCHEDULE OF FEES, CHARGES, AND EXPENSES**

### Chapter 17.21 Schedule of Fees, Charges, and Expenses

- 17.2101     Schedule of Fees Charges and Expenses. The Board of County Commissioners shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Office of the Zoning Administrator and may be altered or amended only by the Board of County Commissioners. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.



## **TITLE 17.22 AMENDMENTS**

### Chapter 17.22 Amendments

17.2201     Amendments. The provisions set forth in this Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by action of the Board of County Commissioners or when such amendment, supplement, change, modification or repeal is requested through a petition by thirty (30%) percent of the landowners in the districts requesting a change. An individual landowner may also petition the Board to change the zoning of all or any part of his property. Upon filling or upon separate requests by the Board of County Commissioners, the County Planning Commission shall hold a public hearing not less than fifteen (15) days after notice published in newspaper of general circulation in the County and subject to the provision of SDCL 11-2-29.

The Board of County Commissioners shall hold a hearing subject to the provisions of SDCL 11-2-19. At that time, the recommendations of the County Planning Commission will be reported.

The Board of County Commissioners shall therefore, by duly enacted ordinance, or resolution as appropriate, either adopt or reject such amendment, supplement, change, modification or repeal, and if it is adopted by the Board of County Commissioners, the same shall be published in the official newspaper in the County and take effect on the twentieth (20th) day after its publication.

## **TITLE 17.23 VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES**

### Chapter 17.23 Violations, Complaints, Penalties, and Remedies

17.2301     Building Permit Violations. Any person, firm, or corporation in violation of Chapter 17.1701, Article 17.1702 shall be assessed a late fee of twenty-five (\$25) dollars. The Zoning Administrator may also take enforcement measures as given in 17.1701. Payment of all fees shall be made in the Office of

the Spink County Zoning Administrator within ten (10) days after the person, firm, or corporation in violation of this Ordinance has been notified by certified letter. If payment of the fee is not received at the end of the ten (10) day period, the Spink County State's Attorney shall have the power to prosecute, pursuant to SDCL 7-16-9, 7-19-1, and 11-2-25.

- 17.2302     Violation of This Ordinance. It is declared unlawful for any person, firm, or corporation to violate any of the terms or provisions of this Ordinance, except as otherwise specified in Article 17.1702. Violation thereof shall be a misdemeanor and may be punishable by a fine of up to two hundred (\$200) dollars for each and every day that any violator fails to comply with the provisions of this Ordinance. All fines for violations shall be paid to the County and shall be credited to the general revenue fund.

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

Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

## **TITLE 17.24   LEGAL STATUS PROVISIONS**

### Chapter 17.24   Legal Status Provisions

- 17.2401     Separability. Should any article, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.
- 17.2402     Purpose of Catch Heads. The catch heads herein in connection with the foregoing chapters are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court, or other tribunal in construing the terms and provisions of this Ordinance.

17.2403     Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.