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*.

17.0202 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;

5. Greasing and lubrication;

6. Providing and repairing fuel pumps, oil pumps, and lines;

7. Minor servicing and repair of carburetors;

8. Adjusting and repairing brakes;

9. Emergency wiring repairs;

10. Minor motor adjustments not involving removal of the head or crankcase or racing the motor:

11. Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for automobile service station customers, as accessory and incidental to principle operation;

12. Provision of road maps and other informational material to customers; and

13. 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 Board.

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, and 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 Water Mark. 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.

6. Any accessory buildings located on the same legal description as the home may be used as a home occupation provided the above apply. (6-25-08 effective)

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, an 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 judgments 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. Separate ownership and unified control, or

    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 be 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 and 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, 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, 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 roads shall be measured from the center of the road extending out directly on one side of the road. A building or other structure shall not be placed or constructed within the setback area. Refer to county road maps for appropriate road setbacks.

A building or other structure may only be placed or constructed after seventy-five (75) feet from where the road right-of-way ends.

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 (Included: Rural Platted Additions)	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 signs 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 where such variance will not be contrary to the public interest and where, owning 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.

Yard, 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. 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 Planning and Zoning Board 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 Planning and Zoning Board 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 Planning and Zoning Board 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 and Zoning Board Recommendations. It shall be a purpose of the Spink County Planning and Zoning Board to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning and Zoning Board 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 Planning and Zoning Board.

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) Floodplain

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;

3. Horticultural endeavors including greenhouses and nurseries; and

4. Seasonal Fireworks Stands (6-25-08 effective)

17.0704 Special Exceptions. After notice and appropriate safeguards, the Board of Adjustment/Planning and Zoning Board 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 trucks 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 agricultural processing;
15. Wildlife propagation and game management;
16. Signs, per Title 17.15;
17. High-voltage lines of 343 KV or greater;
18. Hunting Lodges and Bed & Breakfast Inns;
19. Lagoons;
20. Landfills; and
21. Wireless towers. (6-25-08 effective)

17.0705 Minimum Lot Requirements. The minimum lot width shall be not less than 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 when less than twenty (20) acres are split out of a larger parcel. The plat is then required to be filed with the Director of Equalization according to Title 17.17, Chapters 17.1709 & 17.1710. (Effective 3-07-06)(Updated; effective 11-2-10)*

17.0706 Minimum Setback Requirements. All structures shall be set back not less than seventy-five (75) feet from all improved public roads measured from road right-of-way. The minimum side yard and rear yard setback shall each be twenty (20) feet.

17.0707 Minimum Shelterbelt Setback. Shelterbelts consisting or 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 and Zoning Board.

17.0710 Pollution. Upon receiving a formal complaint of pollution caused from animal runoff including, but not limited to, runoff into ditches, into any body of water, or a field not owned by the person or persons causing the pollution, an investigation will be conducted by the Planning and Zoning Board and/or the DENR. If the pollution is caused by a permitted confinement operation, DENR will determine the penalty. If the pollution is caused by a non-permitted confinement operation, the Planning and Zoning Board may require a CAFO permit to be obtained in order to control the pollution and a fine may be assessed to the landowner and/or

the operator. For fine information see Title 17.23, Chapter 17.2302. (6-25-08 effective)

17.0711 Height and Fencing Material Restriction.

(a) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences of any character or material exceeding ten feet in height, unless otherwise permitted or required within this Code. Unslatted chain-link fences and wrought iron fences shall be exempt from the visibility requirements of this section, providing they are kept free of vegetation, debris and any obstacle obscuring vision.

(b) No person may construct, erect, or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, nor any fence consisting solely of horizontal metal wires. However, where fences are permitted (whether as of right or as of exception) in this Code, barbed wire or concertina wire may be used atop another fence where (1) the real property on which the fence is installed is zoned commercial, or industrial; and (2) where the barbed wire or concertina wire is at least eight feet above grade.

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.

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 and Zoning Board 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 (l00) 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 building permit. 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 Planning and Zoning Board 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 Zoning Administrator. Additionally, all structures moved into the Lake Front Residential 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 and Zoning Board.

17.0811 Sewage Disposal Regulations. It is the responsibility of the landowner to conform to State and Federal sewage disposal regulations. The landowner must contact the Department of Environment and Natural Resources (DENR) for the proper regulations.

17.0812 Height and Fencing Material Restrictions.

(a) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences of any character or material exceeding six feet in height, unless otherwise permitted or required within this Code, or unless the fence is constructed of chain-link and erected on the property of an accredited public or private K-12 school. Then the fence may not exceed 12 feet in height, above the sidewalk or the surface of any lot or parcel of ground. Unslatted chain-link fences and wrought iron fences shall be exempt from the visibility requirements of this section, providing they are kept free of vegetation, debris and any obstacle obscuring vision.

(b) No person may construct, erect, or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, nor any fence consisting solely of horizontal metal wires. However, where fences are permitted (whether as of right or as of exception) in this Code, barbed wire or concertina wire may be used atop another fence where (1) the real property on which the fence is installed is zoned commercial, or industrial; and (2) where the barbed wire or concertina wire is at least eight feet above grade.

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 and Zoning Board 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 (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 and Zoning Board.

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.

17.0907 Height and Fencing Material Restrictions.

(a) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences of any character or material exceeding six feet in height, unless otherwise permitted or required within this Code, or unless the fence is constructed of chain-link and erected on the property of an accredited public or private K-12 school. Then the fence may not exceed 12 feet in height, above the sidewalk or the surface of any lot or parcel of ground. Unslatted chain-link fences and wrought iron fences shall be exempt from the visibility requirements of this section, providing they are kept free of vegetation, debris and any obstacle obscuring vision.

(b) No person may construct, erect, or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, nor any fence consisting solely of horizontal metal wires. However, where fences are permitted (whether as of right or as of exception) in this

Code, barbed wire or concertina wire may be used atop another fence where (1) the real property on which the fence is installed is zoned commercial, or industrial; and (2) where the barbed wire or concertina wire is at least eight feet above grade.

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 seafood, 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; clothing/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, planetariums, 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 and Zoning Board 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 (l00) 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.

17.1007 Height and Fence Material Restrictions.

(a) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences of any character or material exceeding ten feet in height, unless otherwise permitted or required within this Code, or unless the fence is constructed of chain-link and erected on the property of an accredited public or private K-12 school. Then the fence may not exceed 12 feet in height, above the sidewalk or the surface of any lot or parcel of ground. Unslatted chain-link fences and wrought iron fences shall be exempt from the visibility requirements of this section, providing they are kept free of vegetation, debris and any obstacle obscuring vision.

(b) No person may construct, erect, or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, nor any fence consisting solely of horizontal metal wires. However, where fences are permitted (whether as of right or as of exception) in this Code, barbed wire or concertina wire may be used atop another fence where (1) the real property on which the fence is installed is zoned commercial, or industrial; and (2) where the barbed wire or concertina wire is at least eight feet above grade.

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; planetariums; aquariums; historic and monument sites; auditoriums; exhibition halls; and penny-arcades;

17. Miniature golf, gymnasiums and athletic clubs, swimming pools, tennis courts, ice skating, and 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; and

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;

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

3. Seasonal stands: fruit, vegetable, fireworks, or any product that will be sold during a season and not twelve (12) months.

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 seventy-five (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 and Zoning Board.

17.1107 Height and Fence Material Restrictions.

(a) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences of any character or material exceeding ten feet in height, unless otherwise permitted or required within this Code. Unslatted chain-link fences and wrought iron fences shall be exempt from the visibility requirements of this section, providing they are kept free of vegetation, debris and any obstacle obscuring vision.

(b) No person may construct, erect, or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, nor any fence consisting solely of horizontal metal wires. However, where fences are permitted (whether as of right or as of exception) in this Code, barbed wire or concertina wire may be used atop another fence where (1) the real property on which the fence is installed is zoned commercial, or industrial; and (2) where the barbed wire or concertina wire is at least eight feet above grade.

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 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 material sales;
2. Cartage and express facilities;
3. Contractor 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

35. 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 and Zoning Board 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 seventy-five (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 and Zoning Board.

17.1209 Height and Fence Material Restriction.

(a) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences of any character or material exceeding ten feet in height, unless otherwise permitted or required within this Code. Unslatted chain-link fences and wrought iron

fences shall be exempt from the visibility requirements of this section, providing they are kept free of vegetation, debris and any obstacle obscuring vision.

(b) No person may construct, erect, or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, nor any fence consisting solely of horizontal metal wires. However, where fences are permitted (whether as of right or as of exception) in this Code, barbed wire or concertina wire may be used atop another fence where (1) the real property on which the fence is installed is zoned commercial, or industrial; and (2) where the barbed wire or concertina wire is at least eight feet above grade.

17.13 FLOOD DAMAGE PREVENTION ORDINANCE

Article I

Statutory Authorization, Findings of Fact, Purpose, and Methods

17.1301 Statutory Authorization.

The Legislature of the State of South Dakota has in (statutes) SDCL 9-36 and 7-18-14 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the County Commissioners of Spink County, South Dakota, does ordain as follows:

Spink County elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

17.1302 Findings of Fact.

(1) The flood hazard areas of Spink County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood loses are created by the cumulative effect of obstructions in flood plains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are in adequately elevated, floodproofed or otherwise protected from damage.

17.1302 Statement of Purpose.

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

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

17.1303 Methods of Reducing Flood Losses.
In order to accomplish its purpose, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at times of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase hazards to other lands.

Article II
Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its' most reasonable application.

Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Area of shallow flooding means a designed AO, AH, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood-related erosion hazard is the land within a community which is most likely to be subject to severe flood-related erosion loss. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area; on preparation for publication of the FIRM, Zone E may be further refined.

Area of special flood Hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation of publication of the flood insurance rate map, Zone A usually is refined into Zone A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Base flood means the flood having a one percent chance of being equal or exceeded in any given year.

Base flood Elevation (BFE) is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
Building see "structure"
Development means any man-made change to improve or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage equipment or materials.
Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.
Existing construction means for the purpose of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for serving the lots on which the manufactures homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date on the floodplain management regulations adopted by a community.
Existing structures see "existing construction"
Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
Flood or Flooding means:
(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  (1) The overflow of inland or tidal waters.
  (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carries by a current of water and deposited along the path of a current.
(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or and abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.
Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
Flood Insurance Study or Flood Elevation Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, elevation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "flooding").
Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
Floodway see "regulatory floodway"
Floodway encroachment lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.
Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plan management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
Historic Structure means any structure that is:
(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or
(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  (1) By an approved state program as determined by the Secretary of the Interior or
  (2) Directly by the Secretary of the Interior in states without approved programs.
Letter of Map Amendment (LOMA) is an official revision by letter to an effective NFIP map. A LOMA results from an administrative procedure that involves the review of scientific or technical data submitted by the owner or lessee of property who believes the property has incorrectly been included in a designated SFHA. A LOMA amends the

currently effective FEMA map and establishes that a specific property is not located in a SFHA.

Letter of Map Revision Based on Fill *(LOMR-F) A LOMR-F* concludes the FEMA has determined whether a structure or parcel has been elevated on fill above the base flood elevation and is, therefore excluded from the SFHA.

Letter of Map Revision "Conditional" (CLOMR) is FEMA's formal review and comment as to whether a proposed project complies with the minimum NFIP floodplain management criteria.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor;

Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation designed requirements of Sec. 60.3 of the National Flood Insurance Program Regulations.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, means for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974 whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulation adopted by a community.

Recreational vehicle means a vehicle which is:
(a) Built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck; and
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
Special flood area see "area of special flood hazard"
Special hazard area means an area having flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on as FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M or E.
Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of the permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means:
(1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
(2) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
(3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.
For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.
Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."
Variance means a grant of relief by a community from the terms of a flood plain management regulation.
Violation means the failure of a structure or other development to be fully compliant with the community's flood plan management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), (e)(5) is presumed to be a violation until such time as that documentation is provided.
Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Article III
General Provisions

17.1305 Lands to Which This Ordinance Applies.
This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Spink County.
17.1306 Basis for Establishing the Areas of Special Flood Hazard.
The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Spink County," dated October 19, 2010, with accompanying Flood Insurance Rate Maps (FIRM), dated October 19, 2010,
and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

17.1307 Establishment of Development Permit.
A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

17.1308 Compliance.
No structure or land shall hereafter be located, altered, or have its use changed without full compliance with terms of this ordinance and other applicable regulations.

17.1309 Abrogation and Greater Restrictions.

This ordinance is not intended to repel, abrogate, or impair and existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

17.1310 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under state statutes.

17.1311 Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by 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 the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

13.1312 Severability.

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

Article IV
Administration

13.1313 Designation of the Floodplain Administrator.

The Spink County Emergency Manager is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Insurance Program regulations) pertaining to floodplain management.

13.1314 Duties & Responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for the public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including

Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is South Dakota Office of Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of this ordinance.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within in the community.
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

13.1315 Permit Procedures.
Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to sea level to which any nonresidential structure shall be flood-proofed;
3. A certificate from a registered professional engineer or architect that the non residential flood-proofed structure shall meet the flood-proofing criteria of Article V, Section B;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

13.1316 Variance Procedures.

The Appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.

1. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
2. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
3. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level providing the relevant factors in Section C of this Article have been full considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
4. Upon consideration of the factors notes above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
5. Variances shall not be issued within any designed floodway if any increase in flood levels during the base flood discharge would result.
6. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
7. Prerequisites for granting variances:
   a) Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
   b) Variances shall only be issued upon:
      1) showing a good and sufficient cause;

2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

8. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct for a functionally dependent use provided that:

a) the criteria outlined in Article 4, Section D (1)-(9) are met, and

b) the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

A CLOMR is required only for those projects that will:

1. BFE/no floodway (demonstrate < 1.0 ft increase)

A project on a stream or river that has been studied through detailed hydrologic and hydraulic analyses and for which Base Flood Elevations (BFEs) have been specified, **but a floodway has not been designed**. If the developer/property owner/community proposes to allow development that would result in more than a 1.0 foot increase in the BFE, a CLOMR must first be obtained.

44 CFR 60.3 ©(10): Result in an increase in the base flood water-surface elevation (WSEL) of greater than 1.00 foot for streams with BFEs specified but no regulatory floodway designed.

2. BFE/floodway (no-rise)

The second situation requiring a CLOMR is for a project on a stream or river for which detailed analyses have been conducted and BFEs and **a floodway have been designed**. If the community proposes to allow development totally or partially within the floodway that would result in any (greater than 0.0 foot) increase in the BFE, a CLOMR must be obtained.

44 CFR 60.3 (d)(3): Result in any base flood WSEL increase from proposed construction within a regulatory floodway.

LOMRs are required under 44 CFR 65.3; optional for community to add language to ordinance.

Article V
Provisions for Flood Hazard Reduction

13.1317 General Standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure

resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

17.1318 Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided the following provisions are required:

1. **Residential Construction -** new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this ordinance are satisfied.
2. **Nonresidential Construction** – new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
3. **Enclosures** – new construction and substantial improvements, with fully enclosed areas below the lowest floor that are unable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided

b) The bottom of all openings shall be no higher than one foot above grade.
c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured Homes -**

a) Require that all manufactured homes be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b) Require that manufactured homes that are placed or substantially improved within Zones a1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c) In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at or above the Base Flood Elevation; OR the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

5. **Recreational Vehicles** – Require that recreational vehicles placed on sited within Zones A1-31, AH, and AE on the community's FIRM either:

a) be on the site for fewer the 180 consecutive days,
b) be fully licensed and ready for highway use, or
c) meet the permit requirements of Article IV, Section C, and the elevation and anchoring requirements for "manufactured homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

17.1819 <u>Standards for Subdivision Proposals.</u>

1. All subdivisions proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.
3. Base flood elevation data shall be granted for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards
5. All subdivisions proposals including the placement of manufactured home parks and

subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

17.1820 Standard for Areas of Shallow Flooding (AO/AH Zones).
Located within the areas of special flood hazard established in Article 3, Section B, are areas designed as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
1. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number specified).
2. All new construction and substantial improvements of **non-residential** structures;
a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FRIM (at least two feet if no depth number is specified), or;
b) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1)a., are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

17.1821 Floodways.
Floodways located within areas of special flood hazard established in Article III, are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot.
2. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V in this ordinance.
4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood

elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

17.1822 Penalties for Noncompliance.
In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the National Flood Insurance Program (NFIP) regulation, to qualify for the sale of Federally-subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes."
No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be charged with a Class II Misdemeanor, which is a $500 fine and 30 days in jail. Nothing herein contained shall prevent Spink County from taking such other lawful action as is necessary to prevent or remedy any violation.

CERTIFICATION
It is hereby found and declared by Spink County that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.
Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

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 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 reasonably provided on the same lot on which the principle structure or use is conducted, the Planning and Zoning Board may permit such space to be provided on other off-street property, provided that such space lies within four hundred (400) 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 Planning and 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 Planning and Zoning Board 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). These lights 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 nameplate sign per lot in the “C”, “HC”, and “I” districts. 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 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. Should such letters 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. 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 “grandfathered” in. Signs shall not be attached to a roof or project above the roof of a building not more than six (6) feet.

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

2. Yard lights and nameplate illumination, provided that such lights are three (3) feet or more from lot lines. Lights for illuminating parking, yards, or safety and security purposes may be provided where necessary, provided that glare is 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.

3. One double-surfaced nameplate sign for each dwelling group of six or more units, which shall not exceed six (6) square feet in area per surface. Such signs may indicate the names and addresses of the building or project, may be a directory for occupants, or state any combination of the above information.

4. One double-surfaced nameplate 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.

5. Symbols, statues, sculptures, and integrated architectural features on non-residential buildings may be illuminated by floodlights, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

6. 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.

7. Name, occupation, and warning signs not to exceed two (2) square feet located on the premises of a business.

8. Bulletin boards for public, charitable, or religious institutions shall not exceed thirty-five (35) square feet in area.

9. 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, nameplate signs, business signs, and advertising signs are subject to the following regulations:

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 nameplate signs, business signs, and advertising signs are 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 not 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 any one premises, 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 any one premises; 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 (l00) 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 districts, 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" districts, 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.

4. 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.

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 to 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.

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 amendments. It is the intent to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

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

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

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, not withstanding 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, increased, or 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 Nonconforming 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 PROCEDURES 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 ensure compliance with, or to prevent, violations of its provisions.

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

1. For any new structure, or improvements to existing structures, in which the market value of the improvement, including labor 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, regardless of cost, if additional land or area is required for it to be sited on. No structure, which meets any one of the above criteria, shall be erected, partially erected, moved, added to, or structurally altered without a permit issued by the Zoning Administrator.

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

5. Any mobile home brought into the county requires a building permit. For a building permit to be issued the owner shall provide the title for

the mobile home or a governmental document stating age and ownership. Any mobile home that is older than 15 years from the manufacture date will need to apply for a variance. Pictures of the mobile home inside and out will be required in the variance process.

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. Building permits issued to move in a mobile home shall expire within six months from the issue date and will only be renewed one time before it is expired.

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 Permit Fees. All building 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 as follows in Fee Schedule which shall be adopted every January and is available for viewing in the Equalization office, 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 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 Planning and Zoning Board/Zoning Administrator. No other municipality shall be allowed to issue building permits unless authorized by the 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 in Fee Schedule.

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. Platting of land is required, regardless of whether the land in question is to be rezoned.

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

1. 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)

2. Application Fee
   The landowner and the Equalization Office must fill out Appendix R (Checklist for Filing a Plat). The landowner shall then pay to the Equalization Office all application fees as stated on Appendix R.

3. Plat Application
   All plat submittals shall be in conformance with the design standards set forth in Appendix E (Spink County Subdivision and Minor Plat and Replat Regulations)

TITLE 17.18 COUNTY PLANNING COMMISSION/ZONING BOARD OF ADJUSTMENT

Chapter 17.18 Planning and Zoning Board/Zoning Board of Adjustment

17.1801 Proceedings of the Planning and Zoning Board. The County Planning and Zoning Board shall serve as a Board of Adjustment as provided by SDCL 11-2-25.1. The County Planning and Zoning Board shall adopt rules necessary for the conduct of its affairs and keeping with the provisions of this Ordinance. The County Planning and Zoning Board 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 and Zoning Board 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 Planning and Zoning Board 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 Board. The Planning and Zoning Board shall adopt sub-regulations as it deems 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, 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 ten days prior to the public hearing by the Planning and Zoning Board.

2. Notice by certified letter shall be given to the adjacent landowners, the property owners requesting the special exception, and the local government entity at least seven (7) days prior to a hearing on the request. The notice will be sent by the 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;

a. 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 safeguards 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 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 ten days prior to the public hearing by the Planning and Zoning Board.

2. Notice shall be sent to the adjacent/abutting landowners 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 Planning and Zoning Board. Any party may appear in person or by agent or by attorney.

4. The Planning and Zoning Board 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 Planning and Zoning Board 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:

   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;

   f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;

   g. Required yards and other open spaces; and

h. General compatibility with adjacent properties and other property in the district.

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 ten days prior to 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 Planning and Zoning Board. 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 Zoning Administrator files the approved meeting minutes 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 and Zoning Board meeting date and the required County Commission meeting dates. This way, if there is any opposition, it will surface at the Planning and Zoning Board level and may affect their 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 <u>Board of Adjustment has Power of Zoning Administrator on Appeals Reversing Decision of Zoning Administrator</u>. 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, Planning and Zoning Board/Board of 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 Board/Board of Adjustment only in appeal from the decisions of the Zoning Administrator, and that recourse from the decisions of the Planning and Zoning Board/Board of Adjustment shall be to the Board of County 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 Planning and Zoning Board/Board of 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 Board/Board of 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 filing or upon separate requests by the Board of County Commissioners, the Planning and Zoning Board shall hold a public hearing not less than fifteen (15) days after notice published in a 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.

Appendix A
Mobile Home Standards

The following standards for mobile home tiedowns have taken into account possibilities and practicalities of providing protection from high winds for mobile homes. The standards may be used in conjunction with the ideas and concepts presented in TR-75, Protecting Mobile Homes from High Winds, prepared by the Defense Civil Preparedness Agency, Washington, D.C.

Mobile homes require two types of anchorage: (1) over-the-top tiedowns to restrict overturning and (2) frame ties to prevent the mobile home from being pushed from its piers. The standards apply to single mobile homes up to 14 feet in width. "Double wides" do not require over-the-top ties, but they require the same number of frame ties.

Mobile Home Piers and Footings. All mobile homes shall meet the following minimum requirements for mobile home piers and footings:

1. The ground on which the mobile home is placed will support a minimum of 2,500 pounds per square foot.
2. All piers shall be placed on footings of solid concrete with minimum dimensions of 16" x 16" x 4".
3. Piers shall be constructed of standard 8" x 8" x 16" hollow concrete blocks.
4. Piers shall be topped with solid concrete caps 8" x 16".
5. Treated or cedar wood shims shall be driven tight between the cap and the main frame to provide uniform bearing.
6. Other types of piers and foundations of equivalent permanence and weight bearing ability may be approved. Jacks or heavy metal adjustable columns, anchored to both frame and foundation, may be used.
7. Piers shall be centered under each main frame (or chassis) member, with a maximum spacing of 10 feet on centers. The end piers shall be no farther than five (5) feet in from the ends of the mobile homes.

The mobile home tie-downs will also have to meet the following criteria:

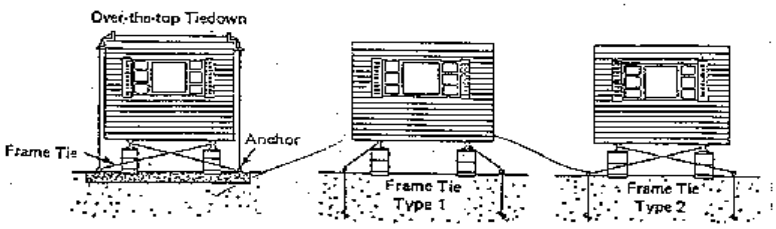
1. Over-the-top tiedowns shall be positioned at stud and rafter locations near each end of the mobile home. Others, if needed, may be positioned between them
2. Either steel cable or steel strapping can be used for ties. All ties shall be fastened to ground anchors, as described in Section 3 below, and drawn tight with galvanized turnbuckles or yoke-type fasteners and tensioning devices. Turnbuckles shall be forged, or ended with jaws. Turnbuckles with hook ends will not be permitted.
3. All cable ends shall be secured with at least two U-bolt-type cable clamps or other fastening devices as approved by the enforcing officials.
4. Cables used for tiedowns shall be either galvanized steel or stainless steel having a breaking strength greater than 4,800 pounds. Cable shall be either 7/32" diameter or greater (7x19) aircraft cable.
5. When flat steel straps are used for tiedowns, they must be in accordance with Federal Specification QQ-S-781. That is 1 ¼" x .035", type 1, Class B, Grade 1, with a breaking strength of at least 4, 750 pounds.
6. Steel straps used for ties must terminate with D-rings, bolts, or other fastening devices which will not cause distortion of the band or reduce its breaking strength.
7. Sharp edges of the mobile home that would tend to cut the cable or strap must be protected by a suitable device to prevent cutting when the mobile home is buffeted by

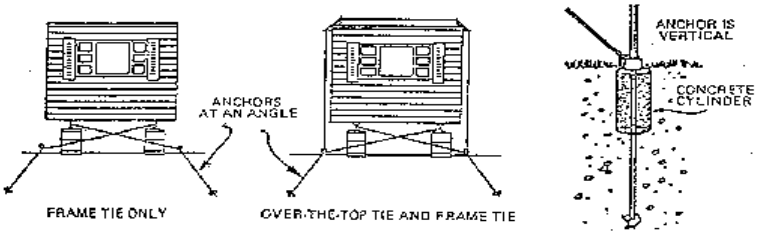
the wind. Likewise, special adapters must be installed to prevent the cable or strap from knifing through the mobile home.

8. Connection of the cable frame tie to the I-beam (or other shape) main structural-frame member should be by a 5/8" drop-forged closed eye bolted through a hole drilled in the center of the I-beam web. A washer, or equivalent, should be used so that the beam is sufficiently reinforced around the hole. If steel-strap ties are used, care should be exercised to ensure that minimum bending radius is adhered to so that the breaking strength of the strap is not reduced.
9. Frame ties should connect the anchor and the steel I-beam (or other shape) main structural frame member which runs lengthwise under the mobile home. Frame ties CANNOT BE CONNECTED to any of the steel outrigger beams which fasten to and intersect the main I-beams at right angles. The outriggers do not have adequate strength to resist the frame tie loadings during high winds.

Mobile home ground anchors shall meet the following requirements:

1. Ground anchors should be aligned with centers of piers. Also, they should be situated immediately below the outer wall to accommodate over-the-top as well as frame ties.
2. Auger-type anchors shall have a minimum diameter of 6 inches (arrowheads 81') and be sunk to their full depth (at least four inches). Steel rods shall be at least 5/8" in diameter, have a forged or welded eye at top, or have a yoke-type fastening and tensioning device or a threaded connector and tensioning device.
3. Anchors shall be capable of withstanding 5,700 pounds of pull (in a vertical or diagonal direction) without failure. This loading can be achieved by many anchors in most kinds of soils.
4. Deadman anchors shall be sunk to a depth of five feet, have a minimum length of two feet, and have a diameter of at least six inches. Hollow concrete blocks are not approved. Steel rods shall be at least 5/8" in diameter, with a bottom hooked into the concrete deadman.
5. Anchors to reinforced concrete slabs must be of strength comparable to that presented above.





Age requirements: Any mobile home brought into the county requires a building permit. For a building permit to be issued the owner must provide the title for the mobile home. Any mobile home that is older than 15 years from the manufacture date will need to apply for a variance. Pictures of the mobile homes inside and outside will be required in the variance process. Once a building permit has been issued for moving in a mobile home the building permit will expire within 6 months of the issued date and can only be renewed one time after expiration of building permit.

Appendix B
Industrial Performance Standards

1. Physical Appearance. All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from the street
2. Fire Hazard. No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels, and welding gases when handled in accordance with other county ordinances.
3. Noise. No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness.
4. Sewage and Liquid Wastes. No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. Air Contaminants. Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one (1) four (4) minute period each one-half (1/2) hour. Light-colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

   Particular matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths (.2) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit, except for a period of four (4) minutes in any one-half (1/2) hour at which time it may equal but not exceed six-tenths (.6) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.

   Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in

general or to endanger the comfort, repose, health or safety of any such considerable number of persons or to the public in general or to cause or have a natural tendency to cause injury or damage to business, vegetation, or property.

6. Odor. The emissions of odors that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor, it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious, and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
7. Gases. The gases sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million. All nitrous fumes shall not exceed one (1) part per million. Measurements shall be taken at the property line of the particular establishment involved.
8. Vibration. All machines, including punch presses and stamping machines, shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (3/1,000) of an inch measured at the property line. The use of steam or broad hammers shall not be permitted in this district.
9. Glare and Heat. All glares, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the property lines. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

APPENDIX C

MINIMUM SHELTERBELT AND FARMSTEAD WINDBREAK SETBACK REQUIREMENTS

SHELTERBELTS/FARMSTEAD WINDBREAKS

Setback Requirements.

Shelterbelts in all districts consisting of one or more rows when parallel to the right-of way (measured from the center of the road) shall be set back a minimum distance as follows:

1. For roads with a 150 foot right-of-way, shelterbelts must be planted 30 feet beyond the right-of-way;

2. Roads with a 100 foot right-of-way require shelterbelts to be planted 40 feet beyond the right-of-way line; and

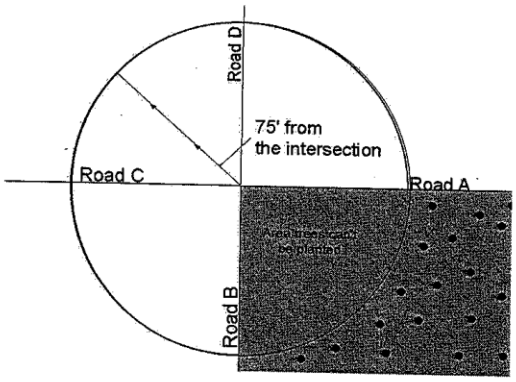
3. On roads with a 66 foot right-of-way, shelterbelts are required to be planted 50 feet from the right-of-way line.

Replacement

Replacement trees in existing shelterbelts are exempt from minimum shelterbelt requirements as long as its nonconformance is not increased.

Visibility

On a corner lot in any agricultural district, trees shall not be planted or allowed to grow in the area formed by the radius of seventy-five (75) feet from the intersection at the road's edge.



APPENDIX D

CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS

Intent

An adequate supply of healthy livestock, poultry and other animals is essential to the well-being of county citizens and the State of South Dakota. However, livestock, poultry, and other animals produce manure which may, where improperly stored, transported, or disposed, negatively affect the County environment. Animal manure must be controlled where it may add to air, surface water, ground water, or land pollution. The following regulations have been adopted to provide protection against pollution caused by manure from domesticated animals. All new and proposed expansions of Concentrated Animal Feeding Operations shall comply with the regulations as outline herein.

It is the intention of the Board of Adjustment in the enforcement of this ordinance that when an operator of an existing Concentrated Animal Feeding Operation applies for a permit to expand to another class level, the standards that apply to the expansion will not be applied to existing structures that were built in compliance with accepted industry standards in existence at the time of the construction of such facilities. A special exception can be issued, see Special Exception in the Spink County Zoning Regulations.

Definitions

Animal Manure: Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding, or other materials.

Applicant: An individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

Change in operation: occurs if any/all of the following exist:

1. A new concentrated animal feeding operation is proposed where one does not exist.
2. An expansion is proposed beyond what a current permit allows.
3. A change in ownership.
4. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.
5. A signed complaint has been received by the County Zoning Officer or South Dakota Department of Environment and Natural Resources and after inspection reveals that the concentrated animal feeding operation is in violation of county or state regulations.

Farm Dwelling: Any dwelling owned or occupied by the farm owners, operators, tenants, or seasonal or year-round hired workers.

Non-Farm Dwelling: An occupied dwelling which is not a farm dwelling.

Permit*:* A permit required by these regulations unless stated otherwise.

Process Generated Wastewater: Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from water systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits

or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.
Process Wastewater*:* Any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the animal feeding operation. The term includes runoff from an open lot.
Radius: A straight line extending from the center of a circle to its edge.
Residence: A home must be occupied six (6) months out of the year and have utility hooks ups.
Setback: The distance required for an operation to be measured from a particular entity (see list on page 8). Setbacks are measured from a point between the lagoon and feedlot. If the lagoon and feedlot are more than 500 feet apart, the setback will be measured from the center of each.
Shall*:* *Shall* means that the condition is an enforceable requirement of this permit.
Shallow Aquifer*:* An aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.
Shallow Well: A well which is located in a shallow aquifer.
Should: *Should* means that the condition is a recommendation. If violations of the permit occur, the County will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.
Significant Contributor of Pollution*:* To determine if a concentrated animal feeding operation meets this definition, the following factors are considered:

1. Size of feeding operation and amount of manure reaching waters of the state;
2. Location of the feeding operation in relation to waters of the state;
3. Means of conveyance of manure and process wastewater into waters of the state;
4. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewater into waters of the state.

Water of the State means all waters within the jurisdiction of this state, including all streams, lake, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or privates, situated wholly or partly within or bordering upon the state.

Zone A: Special Flood Hazard Areas subject to inundation by the 100-year flood.

Well: a hole that is dug or drilled into the ground in order to obtain water. **Public well** is for the use of a community. **Private well** is belonging to, restricted to, or intended for an individual person, and is not open to the public.

<u>Classes of Concentrated Animal Feeding Operations</u>

A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 45

days or more during any 12-month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility. Two or more animal feeding operations under common ownership are a single animal operation if they adjoin each other, or if they use a common area, or system for disposal of manure. For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into the following classes:

Number of Animals to Define Large, Medium, and Small Concentrated Animal Feeding Operations

(Classifications are based on number of head)

TYPE OF ANIMAL FEEDING OPERATION	**LARGE:** ANIMAL NUMBERS EQUAL TO OR MORE THAN	**MEDIUM:** ANIMAL NUMBERS EQUAL TO	**SMALL:** ANIMAL NUMBERS LESS THAN
Dairy Cows (mature-milked or dry) & Buffalo	700 to 3,500	200 to 699	200
Veal Calves	1,000 to 5,000	300 to 999	300
Cattle other than mature dairy cows or veal calves*	1,000 to 5,000	300 to 999	300
Swine (weighing more than 55 pounds)	2,500	750 to 2,499	750
Swine (weighing less than 55 pounds)	10,000	3,000 to 9,999	3,000
Horses	500	150 to 499	150
Sheep, Lambs, or Goats	10,000	3,000 to 9,999	3,000
Turkeys	55,000	16,500 to 54,999	16,500
Laying hens or broilers, and Pheasants**	30,000	9,000 to 29,999	9,000
Chickens, other than laying hens***	125,000	37,500 to 124,999	37,500
Laying hens ***	82,000	25,000 to 81,999	25,000
Ducks **	5,000	1,500 to 4,999	1,500
Ducks ***	30,000	10,000 to 29,999	10,000
Geese	30,000	10,000 to 29,999	10,000

NOTES:

* *Cattle* includes, but is not limited to, heifers, steers, bulls, and cow/calf pairs.

** Animal feeding operation uses a liquid manure handling system.

*** Animal feeding operation uses other than a liquid manure handling system.

Other animal types not listed in the above table may be considered on a case-by-case basis.

Setback Chart

Large class CAFOs are subject to a setback distance of an additional 1,000 feet for additional 1,000 animal units. See chart for animal unit equivalence.

TYPE OF ANIMAL FEEDING OPERATION	**LARGE:** ANIMAL NUMBERS EQUAL TO OR MORE THAN	ANIMAL UNIT EQUIVALENT
Dairy Cows (mature-milked or dry) & Buffalo	700 to 3,500	1
Veal Calves	1,000 to 5,000	1
Cattle other than mature dairy cows or veal calves *	1,000 to 5,000	1
Swine (weighing more than 55 pounds)	2,500	0.40
Swine (weighing less than 55 pounds)	10,000	0.10
Horses	500	2
Sheep, Lambs, or Goats	10,000	0.01
Turkeys	55,000	0.018
Laying hens or broilers, and Pheasants **	30,000	0.033
Chickens, other than laying hens ***	125,000	0.01
Laying hens ***	82,000	0.033
Ducks	5,000	0.02
Geese	30,00	

NOTES:
* *Cattle* includes, but is not limited to, heifers, steers, bulls, and cow/calf pairs.
** Animal feeding operation uses a liquid manure handling system.
*** Animal feeding operation uses other than a liquid manure handling system.

Concentrated Animal Feeding Operation Permit Requirements

Owners of a large, medium, or small concentrated animal feeding operation are required to complete a permit application whenever any of the following occur:

1. A new concentrated animal feeding operation is proposed where one does not exist.
2. An expansion is proposed beyond what a current permit allows.
3. A change in ownership.
4. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.
5. A signed complaint has been received by the county Zoning Administrator or South Dakota Department of Environment and Natural Resources and after inspection reveals that the concentrated animal feeding operation is in violation of county or state regulations.

Concentrated Animal Feeding Operation Control Requirements

1. **No Significant Contribution of Pollution**
   In general, no concentrated animal feeding operation shall be constructed, located, or operated so as to create a significant contribution of pollution.

2. County Temporary CAFO Permit

All classes of concentrated animal feeding operations shall obtain a Spink County temporary permit pertaining to the animal species of the concentrated animal feeding operation before applying at the State level. After the State General Permit has been approved, the Zoning Administrator will file the temporary permit as a permanent permit in the Register of Deeds office. All classes are required to obtain a permit prior to construction.

If the work described in any temporary CAFO permit has not commenced within two (2) years from the date of issuance thereof, said permit shall expire. Applicant may request in writing an extension from the Zoning Administrator. The administrator may grant a one-time, two (2) year extension for a temporary CAFO permit. If the work has not commenced after the extension, a new application will be required.

3. Nutrient Management Plan

All classes of concentrated animal feeding operations shall submit a Nutrient Management Plan to the Spink County Planning and Zoning Board. The applicant shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water according to the South Dakota Department of Environment and Natural Resources.

The plan must comply with County Manure Application setbacks.

Land spreading agreements shall be provided in order to apply animal manure.

4. Management and Operation Plan for Manure, Odor, and Fly Control

All classes of concentrated animal feeding operations shall submit a Manure Management and Operation Plan.
All classes of concentrated animal feeding operations shall dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies.

Plans must also be in compliance with State regulations.

A. Manure Management Plan must include, but is not limited to:

1. The location and specifics of proposed animal manure facilities. Types of, and location of, bunkers or containments used.
2. The operation procedures and maintenance of manure facilities.
3. Plans and specifications must be prepared or approved by a registered professional engineer, or a South Dakota licensed Natural Resource Conservation Service (NRCS) engineer. Waste treatment facilities will require inspection by an engineer and as-built plans to be submitted to the Zoning Administrator.

4. Animal manure shall not be stored longer than two years.
5. Manure containment structures shall provide for a minimum design volume of 270 days of storage.
6. Refer to page 9 for Manure Application setbacks.

B. The Board of Adjustment may require manure to be injected or incorporated into the soil.

C. If incorporation of manure is required, it must occur within 24 hours of open-air spreading.

D. Fly and Odor Control Plan must include, but is not limited to:

1. Operational plans for manure collection, storage treatment and use must be kept updated and implemented.
2. Methods to be utilized to dispose of dead animals should be included in the management plan.
3. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds and/or lagoons.
4. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
5. Store solid manure in containment areas having good drainage to minimize odor production.
6. Remove manure from open pens as frequently as possible to minimize odor production.
7. Consider use of covers on open storage systems for liquid manure systems to reduce odor production.

5. Required Setbacks and Separation Distance for New Concentrated Animal Feeding Operations.

Minimums

	LARGE	**MEDIUM**	**SMALL**
A. Established Residences not including owners/ operators	3,960 feet *	2,640 feet	2,640 feet
B. Churches, Businesses, & Commercially-zoned Areas	5,280 feet *	5,280 feet	2,640 feet
C. Incorporated Municipality	3 miles	2 miles	5,280 feet

D. Private wells less than 100 feet deep & public water supplies other than the operator	1,000 feet	1,000 feet	1,000 feet
E. Private wells over 100 feet deep	250 feet	250 feet	250 feet
F. Lakes & streams classified as fisheries as identified by the State	500 feet	500 feet	200 feet
G. Federal, State, & County road ROW housed	300 feet	300 feet	200 feet
H. Federal, State, & County Road ROW open lot	300 feet	300 feet	200 feet
I. Township road ROW housed	150 feet	150 feet	150 feet
J. Township road ROW open lot	150 feet	150 feet	150 feet

6. Exemptions from Separation Distance

If a concentrated animal feeding operation is closer than the separation distances provided in these regulations, the applicant can request a written waiver from the separation distance. The residence, business, church, school, municipality, or public use area may waive the distance requirement. The waiver is recorded with the County Register of Deeds in order than any future owners can be informed.

7. New Residences

Anyone establishing a new residence within 3,960 feet of an existing concentrated animal feeding operation, with the potential of the existing operation to expand the operation, must sign and comply with the Restrictive Covenant, Release and Waiver.

8. Manure Application Setbacks

CATEGORY	SURFACE OR IRRIGATION APPLIED	INCORPORATED OR INJECTED
Lakes, rivers & streams, classified as fisheries from high-water mark	1,000 feet	100 feet (lake) 50 feet (river & stream)

Streams & lakes, classified as drinking water supplies	1,000 feet	300 feet
Public roads	100 feet (surface) from right-of-way 100 feet (irrigation)	10 feet from right-of-way
Public wells	1,000 feet	1,00 feet
Private shallow wells	1,000 feet	250 feet
A residence other than the operator	1,000 feet	300 feet
Natural or manmade drainage	500 feet	50 feet

A. The following manure application setbacks apply to all classes of concentrated animal feeding operations:
B. The County Board of Adjustment may require liquid manure to be incorporated or injected in order to minimize air and water quality impacts.
C. The County Board of Adjustment will review the aerial maps, as required in Appendix V, when the applicant requests application of liquid manure by means of irrigation.
D. Refer to Buffer and Setback Requirements as provided by the NRCS.

9. Standards for Special Exception

A. The County Board of Adjustment may request information relating to a concentrated animal feeding operation not contained in these regulations.
B. The County Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the County Board of Adjustment considers necessary to protect the public health, safety, and welfare.
C. Special exceptions shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are adhered to.
D. When considering an application, the County Board of Adjustment will take into consideration current and past violations relating to concentrated animal feeding operations that the applicant has an interest in.
E. Permit applicants will be required to file a letter of assurances as required by the County Board of Adjustment. The letter of assurances will be prepared by the Zoning Administrator and signed by both the applicant and the Zoning Administrator.
F. A neighboring township that adjoins between two counties will follow the regulations of the county that is most restrictive.
G. The Planning and Zoning Board may require an applicant's record on environmental issues, employment, and labor compliance to be submitted with the application. If the Planning and Zoning Board determines the person and/or company is a "bad actor", then the applicant will be denied a permit.

10. Facility Road Maintenance Agreements

All facilities within Spink County that cause excessive maintenance of County or Township roads shall be required to have a written agreement with the Township Board or County Highway Superintendent, stating acceptance responsibility for all additional cost incurred by the facility in maintenance of said road. Excessive maintenance shall be defined as: All work and material costs incurred over and above the average cost of maintaining that specific type of road within that local government unit's jurisdiction. The terms of said agreement shall be determined prior to the issuance of a conditional use permit.

11. Information Required for all Concentrated Animal Feeding Operational Permits.

A. Refer to CAFO Packet, which includes:
   1. Appendix D
   2. Appendix V—Temporary CAFO Application & Procedure to File
   3. Waiver of Distance & Procedure to file
   4. Consent for Waiver of Distance (only residents within setback distance).
   5. Manure Application Lease Agreement
   6. Letter of Assurance

12. Information Required for the Addition of, or Expansion of, a Manure Management System for An Existing Feedlot.

A. If the expansion is a change in class, the requirements for the new class must be followed.
B. If the new expansion does not change the class, then any new information relating to the expansion that is not already on file with the Spink County Planning and Zoning Board.
C. A building permit must be purchased, regardless of class.

13. Violations, Complaints, Penalties, and Remedies

A. It is declared unlawful for any person, firm, or corporation to violate any of the terms or provisions of the concentrated animal feeding operation ordinances. Violation of this ordinance 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.
B. Violations or complaints thereof shall be referred to the County Board of Adjustment. The County Board of Adjustment reserves the right to do on-site inspections or refer violations or complaints to the DENR.

14. Clean Up Clause

Applicant and/or operator shall be required to remediate the facility according to standards acceptable to the County Board of Adjustment and DENR upon closing the facility and within sixty (60) days of closing at applicant's own cost, and shall sign an agreement to do so prior to issuance of a building permit.

APPENDIX E

SPINK COUNTY SUBDIVISION and MINOR PLAT and REPLAT REGULATIONS

An Ordinance establishing rules, regulations, and standards governing the subdivision of land within Spink County, South Dakota, and providing harmonious development of the county and its environs for the coordination of streets within subdivisions with other existing or planned streets or with other features of the comprehensive plan of the county for adequate open spaces for traffic, recreation, light and air, and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, or prosperity.

Now, therefore, be it enacted by Spink County, South Dakota.

ARTICLE I—GENERAL PROVISIONS

SECTION 101—Purpose

These regulations shall be for the purpose of promoting harmonious development through the implementation of the Spink County Comprehensive Plan.

SECTION 102—Extent of Regulation

The provisions of these regulations shall apply to every addition to or subdivision within Spink County, South Dakota, and their prescribed area of extra-territorial jurisdiction. No plat of a subdivision of land shall be filed or recorded until it has been submitted to the Planning and Zoning Board for their review and then approved by the Spink County Commissioners, except for minor plats or replats (See Article 9).

SECTION 103—Definitions

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

The word *person* includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word *shall* is mandatory, the word *may* is permissive.

The words *used* or *occupied* included the words *intended, designed,* or *arranged* to be used or occupied.

The word *lot* includes the words *plot* or *parcel.*

The word *building* includes the word *structure.*

Alley: A public right-of-way which is used primarily as a secondary means of access to the abutting property.

Block: A track or parcel of land bounded by public streets or land, streams, railroads, unplatted lands or a combination thereof.

Comprehensive Plan: A long-range plan for the improvement and development of Spink County, South Dakota, as adopted by the Planning and Zoning Board and the County Commissioners.

Cul-de-sac: A street having one end connecting with a public street and being terminated as its other end by a vehicular turn-around.

Improvements: Pavements, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading street signs, plantings, and other items for the welfare of the property owners and the public.

Lot: A portion of a subdivision or other parcel of plotted land, intended as a unit for transfer of ownership or for development.

Lot of record: A tract of land described as an integral portion of a subdivision plat which is properly recorded in the Register of Deeds office of Spink County, South Dakota.

Minor Plat: The minor plat document is used when there are minimal changes being proposed to the division of a lot, tract, or parcel of land. A minor plat is a plat containing no more than five lots fronting on an existing road, and does not include any major proposed infrastructure. The minor plat is recorded like a final plat and can be used for sale of property. A minor plat is a subdivision of property meeting the following requirements:

- The property must not create more than five lots, tracts, or parcels
- No public street or access easement is sought to be dedicated through (as opposed to adjacent to) the property
- Does not change the grades from the grading plan which was submitted and approved with the original plat or, if the grades are going to be changed, then a grading plan shall be submitted and approved for the minor plat or replat
- Does not conflict with any provision or portion of the comprehensive plan, official map, zoning ordinance, or these regulations

Plat: A map, drawing, or chart on which the subdivider's plan of the subdivision is presented, which they submit for approval, and which will be recorded in final form.

Replat: A replat includes all the requirements of a minor plat and shall also include the minor vacation of existing platted lines to achieve either a reconfiguration of the existing recorded plat or change the number of recorded lots in the subdivision only where the perimeter of the tract being replatted is not altered by the replat. Also, a replat shall certify that the platting vacates the existing plat.

Right-of-Way: A strip of land separating private property from the existing road, street, alley, or dedicated in public ownership.

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

Street (Major): Provides for the through traffic movement between areas and across the city and direct access to abutting property; subject to necessary control of entrances, exists, and curb use.

Street (Collector): Provides for traffic movement between major arterials and local streets, and direct access to abutting property.

Street (Local): Provides for direct access to abutting land, and for local traffic movements.

Subdivider: A natural person, firm, co-partnership, association, or corporation who submits a proposed subdivision to the Planning and Zoning Board; or Zoning Administrator if a minor plat or replat.

Subdivision: The division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development.

Water course, drainage way, or stream: A natural or man-made depression in which a current of surface run-off water flows following precipitation.

ARTICLE 2—PROCEDURES

SECTION 201— Preliminary Application

Prior to the subdivision of any land, the subdivider or his/her agent shall discuss informally with the Planning and Zoning Administrator the proposed subdivision with reference to these Subdivision Regulations, the Zoning Ordinance, and the Comprehensive Plan.

Section 202—Plat Application Fee

The subdivider shall pay to the Zoning Administrator an application fee as stated in the approved fee schedule.

Section 203—Preliminary Application

The subdivider shall prepare and submit to the Planning and Zoning Board the following:

1. One (1) copy of the preliminary plat at a uniform size of fifteen (15) inches by twenty-six (26) inches or eight and one-half (8 ½) inches by fourteen (14) inches. All preliminary submittals shall be in conformance with the design standards set forth in Article 3 of this Ordinance and shall include or be accompanied by the following information:
    a. Receipt for platting fee application.
    b. Proposed name of the subdivision, which shall not duplicate previously-filed plat names.
    c. A date, scale, north point, and key map showing the general location of the proposed subdivision in relation to surrounding development.
    d. Names and addresses of the developer, engineer, surveyor, or landscape architect responsible for the survey or design.
    e. Location of boundary lines in relation to section or quarter section lines, including a legal description of the property.
    f. Location, width, and name of existing or platted streets and alleys, railroads, utilities, rights-of-way or easements, parks, and existing structures within the proposed subdivision and their relationship to the same of adjacent subdivisions.
    g. Zoning classifications and existing and proposed land use.
    h. Written and signed statements explaining how and when the subdivider proposes to provide and install and required sewers or other suitable sanitary disposal systems, water supply, pavement, sidewalks, drainage ways, and other required improvements, or in lieu of the completion of such work and installations previous to the final approval of a plat, the County Commissioners may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the municipality the actual construction and installation of such improvements and utilities within a period specified by the County Commissioners and expressed in the bond, or in lieu of completion of such work and installations previous to the final approval of a plat for an assessment or other method whereby the municipality is put in an assured position to do said work and make aid installations at the cost of the owners of the property within the subdivision.
    i. Written and signed statements by the appropriate officials, obtained by the developer, ascertaining the availability of gas, electricity, and water at the proposed subdivisions.

j. Layout, numbers, and approximate dimensions of lots and the number of each block.
k. Existing flood hazard areas

2. The Planning and Zoning Administrator shall distribute said applications to the appropriate officials, who shall examine the proposed plat in terms of compliance with all laws, regulations, and codes of the City or County. The findings of the examinations shall be returned to the Commission on the next scheduled meeting.
3. The Commission, upon receipt of the examination findings, shall approve or disapprove the preliminary plat application at the time of their next regularly scheduled meeting. Approval of the preliminary plat by the Commission shall be void at the end of six (6) months unless a final plat has been submitted.
4. Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat.

Section 204—Final Plat Application

The subdivider shall prepare and submit to the Planning and Zoning Board the following, prepared by an engineer or land surveyor registered in the State of South Dakota:

1. Four (4) copies of the final 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. All final plat submittals shall be in conformance with the design standards set forth in Article 3 of this Ordinance and shall include or be accompanied by the following information, in addition to that already submitted on the preliminary application:

    a. The exact location and layout of lots, streets, alleys, easements, and other public ground with accurate dimensions in feet and decimals of feet, interior angles, length of radii and/or arcs of all curves, together with the names of all streets.
    b. Location and description of all monuments.
    c. 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.
    d. 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.
    e. 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.
    f. Certificate signed by the Director of Equalization approving the plat.
    g. One copy of any private restriction or covenants affecting the subdivision or any part thereof.
2. Any subdivision of land containing six or more lots, no matter how described, must be submitted to the Planning and Zoning Board for approval. Any plat

submitted for approval shall contain the name and address of a person to whom notice of hearing may be sent; and no plat except minor plats and replats shall be acted upon by the County Commissioners without affording a hearing thereon, notice of the time and place of which shall be sent by mail to said address not less than five days before the date fixed therefore. Also any plat submitted for approval shall require the signature of the Spink County Auditor.

3. 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.
4. 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.
5. 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.

Section 205 - Certificates Required

Owners Certificate

We, _____, (husband and wife, Joint tenants), Do hereby certify that we are the owners of (Legal description), Spink County, South Dakota, and that we have caused a portion of the same to be surveyed and platted as shown on the attached plat which shall be hereinafter known and described as, (Legal description) Spink County, South Dakota, and that development of this land shall conform to all existing applicable zoning subdivision and sediment control regulations.

Signed this _____ Day of _____, 20_____.

Owners:

_____

_____

Surveyor's Certificate

I, _____, a Registered Land Surveyor of the State of South Dakota do hereby certify that I did on or before _____, survey that parcel of land described as _____ (Legal Description).

Dated this_____ day of _____, 20_____.

_____
Registered Land Surveyor

County Planning Director's Certificate

I, Planning Director, of Spink County, do hereby certify that this plat has been reviewed by me or my authorized agent and has been approved

Approved this _____ day of _____, 20____.

_____
Planning Director Spink County, South Dakota

County Auditor Certificate

I do hereby certify that the above certificate of approval is true and correct including the signature thereon.

Dated this _____ day of _____, 20_____.

_____
County Auditor Spink County, South Dakota

Director of Equalization

I, Director of Equalization of Spink County, South Dakota, do hereby certify that a copy of the above plat has been filed at my office.

_____
Director of Equalization
Spink County, South Dakota

County Treasurer's Certificate

I,_____Treasurer of Spink County, South Dakota, do hereby certify that all taxes which are liens upon any land included in the above (and the foregoing) plats, as shown by the records of my office, have been fully paid.

Dated this _____ day of _____, 20_____.

_____
Treasurer
Spink County, South Dakota

Register of Deeds

Filed for record this _____ day of _____, 20_____, at _____ o'clock_____.m., and recorded in Book _____ of Plats on page _____.

_____
Register of Deeds
Spink County, South Dakota

Highway Authority Certificate
(if necessary, signed by township, state, or county authority)

The location of the inplace access road(s), is hereby approved. Any changes in the inplace access shall require additional approval.

Signed this _____ day of _____, 20____.

_____
Print Name and Title

_____
Signature

City Resolution
I hereby certify that the following is a correct copy of the resolution duly passed by the board of trustees of (CITY), South Dakota, at the meeting held on the ____ Day of _____, 2014.

_____
City official

"Be it resolved by the board of trustees of the town of _____, South Dakota, that the plat showing" (LOCATION), Spink County, South Dakota "Having been

examined is hereby approved in accordance with the provisions of SDCL of 1967, chapter 11-3, and any amendments thereof."

ARTICLE 3—DESIGN STANDARDS

Section 301—General Standards

Land within the proposed subdivision which the Planning and Zoning Board finds to be unsuitable for subdividing due to flooding or bad drainage shall not be subdivided until the objectionable features have been eliminated or until adequate safeguards against such objectionable features are provided.

Section 302—Streets and Alleys

1. Streets in the subdivision normally shall connect with streets already dedicated in adjoining or adjacent subdivisions.
2. Minor residential streets should be planned as to discourage through traffic. Permitted cul-de-sacs shall not be longer than four hundred (400) feet and shall terminate with a turn-around having a curb line diameter of not less than eighty (80) feet.
3. Centerline off-sets of intersecting streets shall be avoided, but where necessary shall be not less than one hundred fifty (150) feet.
4. Blocks in residential subdivisions shall be not less than three hundred (300) feet long and not more than one thousand two hundred (1,200) feet long.
5. Half streets shall be prohibited except where essential to the reasonable development of the subdivision or where it is found to be practical to require the dedication of the other half when adjoining property is subdivided.
6. Under normal conditions streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. More than four (4) approaches to any intersection shall be prohibited.
7. Alleys shall be provided in Commercial and Industrial districts except where other definite and assured provision is made for service access.
8. The right-of-way widths and pavements widths (back-to-back of curb) for interior streets and alleys included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

TYPE	PAVEMENT WIDTH	R.O.W
Major Arterial Streets	80'	66'
Local Streets	46'	66'
Alleys	16'	20'

Section 303—Lots

1. Side lot lines shall be approximately at right angles to straight street lines or radial to curved street lines.
2. Every lot shall abut and have access to a public street.
3. Double frontage lots shall be avoided except where they back upon a major street.

Section 304—Easements

1. Easements on rear or side lot lines shall be provided for sanitary sewers where necessary and shall be a total of at least ten (10) feet wide on each side.
2. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way of such width as will be adequate for both water flow and maintenance operations.

ARTICLE 4—IMPROVEMENTS

Section 401—Improvements

It shall be the responsibility of the developer to install in accordance with plans, specifications, and data approved by the Director of Equalization certain required improvements as follows:

1. Staking - the external boundaries and corners of each block and lot shall be monument by iron rods, pipes, or pins not less than one (1) inch in diameter and extending at least twenty-four (24) inches below grade.

2. Street Grading - all full width streets located entirely within the boundary of the subdivision, except major and collector streets, shall be graded to a minimum width of nine (9) feet back of both curb lines to within six (6) inches of the grade established by the Director of Equalization.

3. Street Surfacing - the streets shall be paved in accordance with street improvement and paving standards and regulations approved by the County Commissioners of Spink County, South Dakota.

4. Sanitary Sewer - where a municipal sanitary sewer is accessible by gravity flow within 500 feet of the final plat, the subdivider shall submit to the County Commissioners the plans for connection with a trunk line to the

existing system. The County Commissioners shall then inform the subdivider of the trunk size requirements as per anticipated development in the general area. Where a municipal sanitary sewer is not accessible by gravity flow within 500 feet of the final plat, the subdivider shall make provision for the disposal of sewerage as required by law. Where a municipal sanitary sewer accessible by gravity connection is not within 500 feet of the final plat, but where plans for the installation of city sanitary sewers within such proximity to the plat have been prepared and construction will commence within twelve (12) months from the date of the approval of the plat, the subdivider shall be required to install sewers in conformity with such plans.

5. Water Mains - where a public water supply is within five hundred (500) feet of a proposed subdivision, the subdivider shall install, or have installed, a connection to each lot prior to the paving of the street, as according to the County Code(s) requirement(s). Where a public water supply is not available, each lot in a subdivision shall be furnished with a water supply system and proper provisions for the maintenance thereof. Any lot so serviced shall have a minimum area of one-half (1/2) acre. The design of any such system shall be subject to the approval of the State Department of Health.

ARTICLE 5—ENFORCEMENT

Section 501 – Enforcement

1. No plat of any subdivision within the application of this Ordinance shall be entitled to be filed or recorded in the office of the Register of Deeds or have any validity until such plat has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.

2. It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land for building purposes as a part of or in conformity with any plat, plan, or re-plat of any subdivision within the area subject to application of this Ordinance unless said plan, plat, or re-plat shall have been approved as prescribed by this Ordinance and filed and recorded in the office of the Register of Deeds.

ARTICLE 6—PENALTY

Section 601—Penalty

It is declared unlawful for any person, firm, or corporation to violate any of the terms or provisions of this Ordinance. Violation thereof shall be a Class 2 misdemeanor and may be punishable by a fine established by the County

Commissioners for each and every day that any violator fails to comply with the provisions of this Ordinance.

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 Spink County from taking such other lawful action as is necessary to prevent any violation.

ARTICLE 7—SEVERABILITY CLAUSE

Section 701—Severability Clause

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

ARTICLE 8—LEGAL STATUS PROVISIONS

Section 801—Conflict with Other Regulations

No final plat of land within the force and effect of the Zoning Ordinance shall be approved unless it conforms to these Regulations. Whenever there is a discrepancy between standards or dimensions noted herein and those contained in the Zoning Ordinance, building code, or other official regulations or ordinances, the most restrictive shall apply.

ARTICLE 9- Subdivision Plan Exemptions- Minor Plat or Replat

Section 901-Minor Plat Procedures

The purpose of this section is to provide for a timely review of minor plats and replats (including plats for transfer of ownership) that do not discernibly impact surrounding properties, environmental resources, or public facilities. No concept plan, preliminary plan, or final plans are required. Minor plats and replats are administratively approved by the Planning Director and the Spink County Auditor must comply with all requirements of a plat in Article 3 (Design Standards).

Section 902 - Minor Plat Requirements

1. A minor plat is a plat containing not more than five lots fronting on an existing road and meet all of the following requirements:

- Does not require the dedication of right-of-way or construction of new roads:
- Does not require the creation of easements:
- Does not create a lot or tract eligible for any public or private improvements other than sidewalks;
- Does not landlock or otherwise impair convenient ingress or egress to or from the rear side of the subject tract or any adjacent property
- Does not change the grades from the grading plan which was submitted and approved with the original plat or, if the grades are going to be changed, then a grading plan shall be submitted and approved for the minor plat or replat;
- Does not significantly change any plans that have been prepared for the placement of any other utilities in the subdivision;
- Does not conflict with any provision or portion of the comprehensive plan, official map, zoning ordinance, or these regulations.

2. Replat. A replat includes all the requirements of a minor plat and shall also include the minor vacation of existing platted lines to achieve either a reconfiguration of the existing recorded plat or change the number of recorded lots in the subdivision only where the perimeter of the tract being replatted is not altered by the replat. Also, a replat shall certify that the platting vacates the existing plat.

Section 903—Minor Plat and Replat Application Fee

The subdivider shall pay to the Zoning Administrator an application fee before final application. The fee shall be as stated in the approved fee schedule.

Section 904 – Minor Plat and Replat Final Application

After receipt of the minor plat or replat application fee, the Planning and Zoning Administrator shall distribute said applications to the appropriate officials, who shall examine the proposed plat in terms of compliance with all laws, regulations, and codes of the City or County

The subdivider shall prepare and submit to the Planning and Zoning Administrator the following, prepared by an engineer or land surveyor registered in the State of South Dakota:

1. Four (4) copies of the final 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. All final plat submittals shall be in conformance with the design standards set forth in Article V of this Ordinance and shall include or be accompanied by the following information:

a. Proposed name of the subdivision, which shall not duplicate previously-filed plat names.
b. A date, scale, north point, and key map showing the general location of the proposed subdivision in relation to surrounding development.
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. Location, width, and name of existing or platted streets and alleys, railroads, utilities, rights-of-way or easements, parks, and existing structures within the proposed subdivision and their relationship to the same of adjacent property.
f. Zoning classifications and existing and proposed land use.
g. Layout, numbers, and approximate dimensions of lots and the number of each block.
h. Existing flood hazard areas
i. The exact location and layout of lots, streets, alleys, easements, and other public ground with accurate dimensions in feet and decimals of feet, interior angles, length of radii and/or arcs of all curves, together with the names of all streets.
j. Location and description of all monuments.
k. 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.
l. 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.

Section 905- Minor plats and Replat Certificates Required

Owners Certificate

We, _____, (husband and wife, Joint tenants), Do hereby certify that we are the owners of (Legal description), Spink County, South Dakota, and that we have caused a portion of the same to be surveyed and platted as shown on the attached plat which shall be hereinafter known and described as, (Legal description) Spink County, South Dakota, and that development of this land shall conform to all existing applicable zoning subdivision and sediment control regulations.

Signed this _____ Day of _____, 20_____.

Owners:

_____

Surveyor's Certificate

I, _____, a Registered Land Surveyor of the State of South Dakota do hereby certify that I did on or before _____, survey that parcel of land described as _____ (Legal Description).

Dated this _____ day of _____, 20_____.

_____
Registered Land

Surveyor

County Planning Director's Certificate

I, Planning Director, of Spink County, do hereby certify that this plat has been reviewed by me or my authorized agent and has been approved

Approved this _____ day of _____, 20____.

_____
Planning Director Spink County, South Dakota

County Auditor Certificate

I do hereby certify that the above certificate of approval is true and correct including the signature thereon.

Dated this _____ day of _____, 20_____.

_____
County Auditor Spink County, South Dakota

Director of Equalization

I, Director of Equalization of Spink County, South Dakota, do hereby certify that a copy of the above plat has been filed at my office.

_____

Director of Equalization
Spink County, South Dakota

County Treasurer's Certificate

I, Treasurer of Spink County, South Dakota, do hereby certify that all taxes which are liens upon any land included in the above (and the foregoing) plats, as shown by the records of my office, have been fully paid.

Dated this _____ day of _____, 20_____.

_____
Treasurer
Spink County, South Dakota

Register of Deeds

Filed for record this _____ day of _____, 20_____, at _____ o'clock_____.m., and recorded in Book _____ of Plats on page _____.

_____
Register of Deeds
Spink County, South Dakota

Highway Authority Certificate

(If necessary, signed by township, state, or county authority)
The location of the inplace access road(s), is hereby approved. Any changes in the inplace access shall require additional approval.

Signed this _____ day of _____, 20____.

_____
Print Name and Title

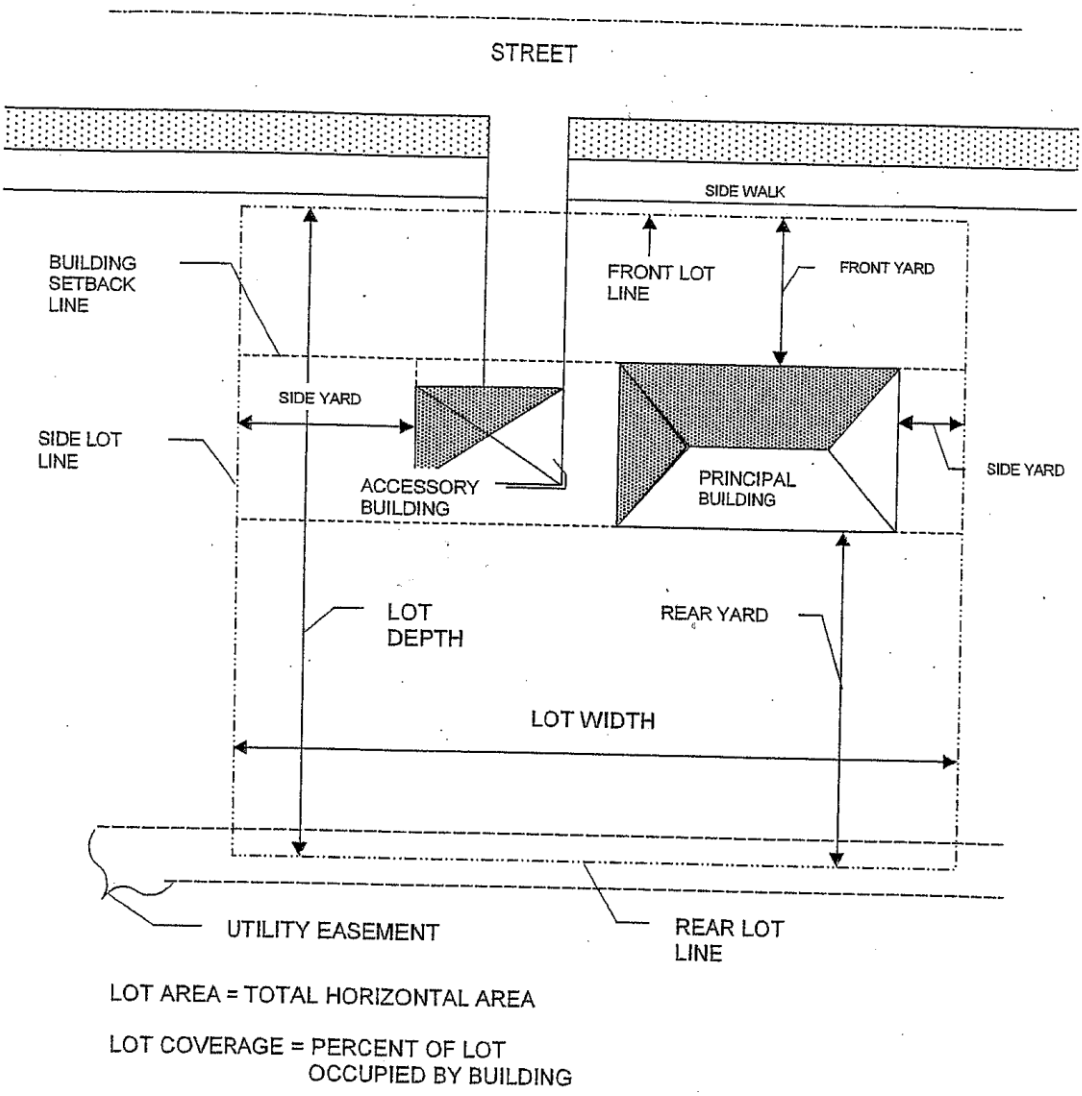
_____
Signature

City Resolution (If Incorporated)

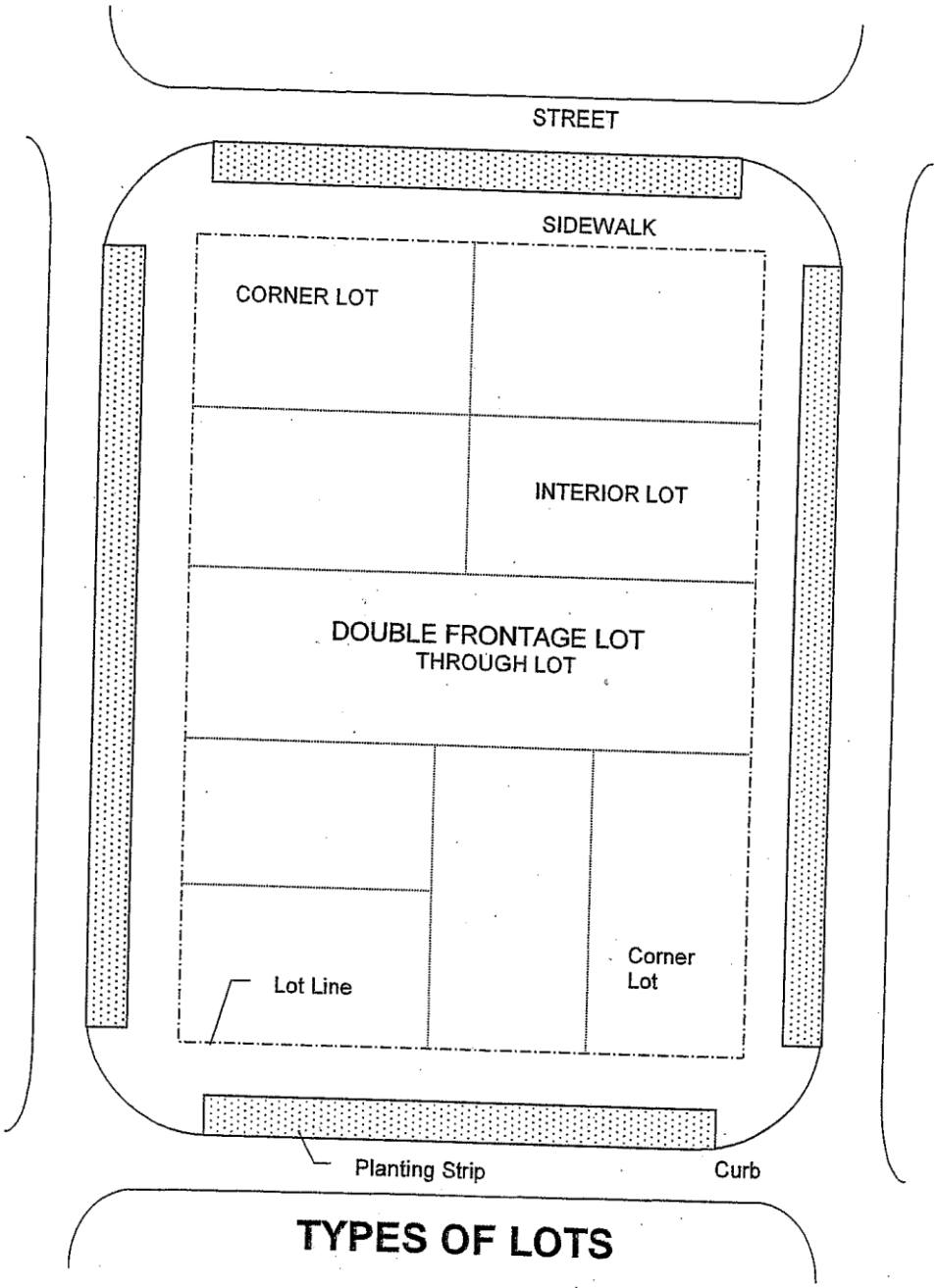
I hereby certify that the following is a correct copy of the resolution duly passed by the board of trustees of (CITY), South Dakota, at the meeting held on the ____ Day of _____, 2014.

_____
City official

"Be it resolved by the board of trustees of the town of _____, South Dakota, that the plat showing" (LOCATION), Spink County, South Dakota "Having been examined is hereby approved in accordance with the provisions of SDCL of 1967, chapter 11-3, and any amendments thereof."



LOT TERMS



TYPES OF LOTS