THE 1995 REVISED ZONING ORDINANCE
OF
LINCOLN COUNTY, SOUTH DAKOTA
LC-0-95-01

COMPiled BY LINCOLN COUNTY PLANNING COMMISSION
UNDER AUTHORITY OF SDCL CHAPTER 11-2

ADOPTed BY ORDINANCE LC-0-95-01 OF
LINCOLN COUNTY BOARD OF COUNTY COMMISSIONERS
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LINCOLN COUNTY PLANNING & ZONING DEPARTMENT
LINCOLN COUNTY COURTHOUSE
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THE 1995 REVISED ZONING ORDINANCE IS UPDATED TO JULY 26, 2005
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ARTICLE 1: SHORT TITLE & APPLICATION

Section 101. Short Title. This Ordinance may be known and cited as the Zoning Ordinance of Lincoln County.

Section 102. Jurisdiction. Pursuant to SDCL Chapter 11-2, as amended, the provisions of this Ordinance shall apply within the unincorporated areas of Lincoln County, South Dakota, and within all districts established under this Ordinance, all as is presently or may hereafter be established on the zoning map or maps entitled "THE 1995 REVISED OFFICIAL ZONING MAP OF LINCOLN COUNTY, SOUTH DAKOTA", and as said map or maps shall be adopted by resolution of the Board of County Commissioners, and as may be thereafter revised, amended or updated from time to time by reason of amendment to this Ordinance, or the approved, authorized and final zoning actions or district border or boundary changes initiated pursuant to this Ordinance and applicable state law.

Section 103. Extra-territorial Areas of Municipalities. In the event the county shall have agreed and concurred with any municipality within the county in the promulgation of one or more separate zoning ordinances for those areas known as "extra-territorial areas" or similar reference, this Ordinance shall not apply to the land within any such extra-territorial areas and in which any municipality and the county have been authorized by law to jointly exercise, and are jointly exercising, zoning and planning jurisdiction.

Section 104. Establishment of Minimum Requirements. The provisions of this Ordinance shall be construed and interpreted as establishing minimum requirements for land use, and buildings and other improvements upon land, within the area of application, all intended for the promotion of public health, safety, morals and general welfare of the County.

Section 105. Construction with other Ordinances. The provisions of this Ordinance shall at all times be construed and interpreted in accordance with the provisions of other county ordinances as Lincoln County may now or hereafter enact and pertaining to and governing (i) the platting and subdivision of lands for development within the county (the "Subdivision Ordinance"); (ii) the standards for building design, construction and safety (the "Building Code"); (iii) any zoning ordinance applying only within extra-territorial areas of a municipality (as referenced in Section 103); (iv) any other relevant ordinance under which the permissible police powers of the county have been exercised, including the regulation and abatement of nuisances; (v) any ordinance (in addition to the requirements of this Ordinance), state statute or governmental agency regulation governing the construction and operation of on-site wastewater treatment or disposal facilities, and (vi) any ordinance providing for comprehensive or area coordinated drainage ("Drainage Ordinance").

Section 106. Publication Format and Updates. Upon the effective date, this Ordinance shall be published for public distribution in loose-leaf, booklet format. Revisions of the publication format, as may be required by amendatory ordinances thereafter, shall be set forth in revised, reissued pages, with the text of the amendment and the ordinance source clearly reflected. The Planning Director shall arrange for publication and updating of the ordinance in the format specified. Fees for the publication format are established in Section 1907 of this Ordinance, and shall be used to defray the cost of printing and updating the publication format.
Section 107. **Purpose and Repealer.** This Ordinance, and the regulations therein, are based generally upon the LINCOLN COUNTY COMPREHENSIVE PLAN 2000-2020, and any subsequent amendments, revisions or other alterations, as adopted by resolution of the Board of County Commissioners of Lincoln County, South Dakota on November 2, 1999, Ordinance Revision effective 2003 02 09, in conformity with SDCL Chapter 11-2. These regulations are designed to carry out the goals and objectives of that plan, but especially to lessen congestion in the streets and other roads, to secure safety from fire and other dangers to the public health; to promote health and welfare of the public; to prevent the overcrowding of land, and avoid undue concentration of population; encourage patterns of development as will logically extend from existing municipalities; and to preserve for such uses, to the extent consistent with the public interest, agricultural and other open lands. This Ordinance repeals the Zoning Ordinance for Lincoln County, South Dakota, as adopted by ordinance of the Board of County Commissioners of Lincoln County, South Dakota, and as amended and existing prior to the effective date hereof, and any other ordinance in conflict therewith.
ARTICLE 2: DISTRICTS AND BOUNDARIES

Section 201. Application of Regulations and Boundaries. The regulations and zoning district boundaries set forth in this Ordinance shall apply to all unincorporated land within Lincoln County, except as noted and provided for in Section 103.

Section 202. Districts Designated. In order to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land for trade, industry, residence or other purposes; and, insofar as possible, to protect and preserve for such uses the county's farms and agricultural lands and in particular to control the spread of small-lot residential development into agricultural lands, and to otherwise conserve the land base while encouraging the controlled development of diverse commercial and industrial uses appropriate to the area; to enhance the county's tax base and maximize the effect of the area's existing transportation and facilities resources, Lincoln County is hereby divided into the following specific zoning districts:

A: Agricultural-Public Use District (Article Four)
C: Commercial-Service District (Article Five)
I: Industrial District (Article Six)
P: Planned Development District (Article Seven)
R: Rural Residential District (Article Eight)

Section 203. Overlay Districts. In addition to the regulations of the Districts designated in Section 202, this Ordinance imposes more stringent requirements or features of one or more overlay districts as set forth in Article Nine.

Section 204. Incorporated by Reference. The following adjuncts, publications or documents are hereby adopted and, for the purposes required, are made a part of this Ordinance and these regulations by special reference, and shall govern the interpretation or construction of this ordinance as though fully set forth herein (no incorporation by reference shall render any such matter which the County may adopt by resolution subject to any legal requirements applicable to ordinances):

(A). THE 1995 REVISED OFFICIAL ZONING MAP(S) RESOLUTION OF LINCOLN COUNTY, SOUTH DAKOTA, as now or hereafter established or promulgated by resolution of the Board of County Commissioners, as an adjunct to THE 1995 REVISED ZONING ORDINANCE OF LINCOLN COUNTY, SOUTH DAKOTA, and as may be modified, revised or amended from time to time thereafter by lawful action, together with all explanatory matter thereon and attached thereto; an attested copy of such map(s), as may be amended or otherwise revised, shall be recorded with the Register of Deeds, Lincoln County; the official zoning map(s) shall be under the general control and supervision of the Lincoln County Planning Director, and, as may be required, shall be attested to or certified by the County Auditor;

(B). The Flood Insurance Rate Map (“FHW”);
(C). Other maps setting forth and describing any overlay districts as established under and provided for in Article Nine of this Ordinance;
(D). The Site Plan Review Applications, as approved pursuant to Article Ten of this Ordinance;

(E). The approved Final Development Plans submitted in conjunction with any Planned Development ("P" District) under this Ordinance;

(F). APPENDIX A to this Ordinance, as may be amended and expanded from time to time, setting forth those additional and supplemental regulations applicable to areas established within the "P" Planned Development District, as set forth in Article Seven.

Section 205. Boundaries of Districts; Maps. The boundaries of the districts are shown upon the official zoning map(s) as identified in Section 204 of this Ordinance. The various districts and their boundaries as have been designated on these maps shall have the same force and effect as if fully set forth in this Ordinance. A certified or attested copy of the official zoning map(s), attested by the County Auditor, shall be evidence of the official zoning map(s). The Planning Director shall have authority to update and/or revise the zoning map upon due and lawful passage of and any amendment to this ordinance and the change of any district or boundary, including the correction of mistakenly-drawn or depicted districts, boundaries or other information as may be set forth on such map from time to time.

Section 206. Rules for Uncertain Boundaries. Where uncertainty exists with respect to the boundaries of any district, as may be shown on any zoning map accompanying or made a part of these regulations by reference, the following rules shall pertain:

(A). The district boundaries are roads unless otherwise shown and where the districts are bounded approximately by roads, the road shall be construed to be the boundary of the district.

(B). Where the property has been or may hereafter be divided into blocks and platted lots, the district boundary shall be construed to coincide with the nearest platted lot lines; and where the districts are bounded approximately by platted lot lines, such lines shall be construed to be the boundary of the district, unless otherwise indicated on the zoning map(s).

(C). In unplatted property, the district boundary lines shall be determined by use of the scale appearing on the zoning maps or the legal description as indicated.

Section 207. Vacation of Streets and Roads. Whenever any street, road or other public way is vacated, the zoning district adjoining each side of such former street, road or other public way is extended to the center of such vacation; and all area included in the vacation shall then extend and be subject to the appropriate regulations of the extended districts.
ARTICLE 3: DEFINITIONS

Section 301. Definitions  For the purpose of this Ordinance, certain terms and words are defined in this Article. Unless the contrary intent clearly appears from this Ordinance, or by construction of other governing law, words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory, not directory.

- **Accessory Buildings or Uses.** A subordinate building or portion of the principal building, the use of which is incidental to and customary in connection with the principal building on or uses of the premises, and which is located on the same lot with the principal building or use. An accessory use is one which is incidental to that of the principal use of the lot, land or premises.

- **Agriculture.** The use of land or premises for agricultural purposes, including farming, dairying, the raising, breeding or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating, storing and seasonal or retail sale of the products or produce so obtained, provided the operation of any such accessory use shall be secondary or ancillary to the normal agricultural activities. Agriculture does not include intensive activities such as concentrated animal feeding operations (see *Concentrated Animal Feeding Operation*, below), and agribusiness or commercial activities.

- **Airport.** A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, navigational aids and improvements, and various accommodations for passengers and/or cargo.

- **Animal Unit.** One animal unit is equivalent to one (1) beef cow, steer, feeder or fat beef animal; 2 horses; 1.4 mature dairy cattle; .4 swine over 55 pounds; .1 nursery swine under 55 pounds; 3.7 farrow to finish sows; .1 sheep; .01 hens, cockerels, capons, broilers; .018 turkeys; and .2 ducks or geese **ORD REV Effective 2003 03 19**.

- **Aquifer.** A zone stratum or group of strata that can store and transit water in sufficient quantities for specific use.

- **Automobile Sales.** The use of any building, land area, or their premises for the display and sale of new or used automobiles, trucks or vans, trailers, or recreational vehicles, including any warranty repair, reconditioning or other repair service conducted as an accessory use.

- **Automobile Service Station.** A facility for the fueling and minor servicing of automobiles and light trucks.

- **Automobile Storage Yard.** The temporary storage of vehicles which are impounded, licensed and operable, in an unroofed area.
• **Bar/Lounge.** An establishment that is licensed to sell alcoholic beverages, including beer, by the drink.

• **Board of County Commissioners.** The governing body of Lincoln County.

• **Broadcast Tower.** A structure, not including offices or studio, for the transmission or broadcast of radio, television, radar or microwaves.

• **Buildable Area.** That portion of the lot that can be occupied by the principal use (or building), exclusive of the front, rear and side yard areas.

• **Building.** Any structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind, permanently affixed to the land. When any portion thereof is completely separated from every other portion by masonry or fire wall without any window, which wall extends from the ground to the roof, such portion shall be deemed to be a separate building.

• **Building, Height of.** The vertical distance from the grade to (a) the highest point of a flat roof; (b) the deck line of a mansard roof, or (c) the average height between eaves and ridge for gable, hip and gambrel roofs.

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

• **City Planning Commission.** The members of a planning commission of any municipality within the county, established pursuant to SDCL Chapter 11-6, and which municipality, in conjunction with the County Planning Commission, exercises joint-planning and zoning jurisdiction in extraterritorial areas within the county.

• **Club.** Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

• **Comprehensive Plan.** The adopted long-range plan of Lincoln County intended to guide the growth and development of the area, including analysis, recommendations and proposals of economy, housing, transportation, community facilities and land use.

• **Concentrated Animal Feeding Operation.** A lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 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 single animal operations if they adjoin each other, or if they use a common area, or if they use a common area or system for disposal of manure.
• **Conditional Use.** A use that would not be appropriate generally or without restriction throughout the zoning district, but which if controlled, would promote the public health, safety and welfare. A use which must conform to the restrictions and conditions established by Ordinance and a Conditional Use Permit.

• **Containment Facility.** *A primary containment facility* is the tank, pit, container, pipe, enclosure or vessel of first containment of a regulated substance.

A *secondary containment facility* is outside the primary, and designed to prevent a regulated substance from reaching land or waters outside the containment area.

• **Contractor’s Shop and Storage Yard.** Use of land or building(s) for storage and preparation of materials used by the owner or occupant in conducting the business of construction and repair work, generally completed at some other on-site location.

• **County Planning Commission.** The Planning Commission appointed by the Board of County Commissioners, who shall regularly meet and make determinations or recommendations as provided for by this Ordinance.

• **Day Care, Day Care Center.** Day care is the providing of care and supervision of child or children as supplement to regular parental care, without transfer of legal custody or adoption placement, with or without compensation, on a regularly basis for part of a day. Day care center is a facility used for day care nursery or pre-kindergarten services, limited in number over twelve (12) by the square footage of useable space available within the center. When more than 12 children are accommodated for all or any part of a day, the center shall have not less than 35 square feet per child indoors and 50 square feet per child outdoors.

• **Density.** The number of families, individuals, dwelling units or housing structures per unit of land.

• **District.** An area, as established on the Zoning Map, for which regulations of this Ordinance, governing the use of structures and the premises, the height of buildings, the size of yards and the intensity of use are uniform.

• **District Overlay.** An area, as established on an overlay district map, for which additional regulations governing the use of land and structures within any zoning district are imposed, as provided for in Article Nine of this Ordinance.

• **Dwelling.** A building or structure customarily used as a residence, containing one or more household units as more particularly allowed by regulations in a particular district.
• **Dwelling, Farm.** Any single-family dwelling located on a farm, and situated within a *farmstead*, used or intended for use as a residence by the farm's owner, relative of the owner, or person employed on the premises in the farm operation.

• **Dwelling, Manufactured Home.** A manufactured home is a structure which is: (i) transportable in 1 or more sections, (ii) 8 feet or more wide or 40 or more feet long in the traveling mode, or occupying 320 or more square feet when erected on site; (iii) is built on a permanent chassis; and (iv) is designed to be used as a dwelling with or without a permanent foundation when connected to required utilities. A manufactured home may not be considered as a *Farm Dwelling or Single-family Dwelling*, except as may be expressly allowed by district regulations and further consistent with Section 1108.

• **Dwelling, Modular Home.** A modular home is a structure which is (i) transported to a site on a trailer, in 1 or more sections; (ii) designed for assembly on site and attachment to a permanent foundation; and (iii) does not have an axle, hitch, demountable frame, or other equipment designed to make it transportable without the use of a trailer.

  A modular home may not be considered as a *Farm Dwelling or Single-family Dwelling*, except as may be expressly allowed by district regulations and further consistent with Section 1108.

• **Dwelling, Multiple-Family.** A residential building containing three or more household units including apartments, condominiums and town houses.

• **Dwelling, Single-Family.** A detached residential building, other than a farm dwelling, manufactured home, or modular home, containing 1 household unit.

• **Dwelling, Two-Family.** A detached residential building containing two household units.

• **Electrical Substation.** A premise which may or may not contain buildings where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate and auxiliary to the main system.

• **Eligible Building Site (Building Eligibility).** A site, generally within the "A" district established pursuant to this Ordinance, which fulfills the requirements for the construction or placement of a residential dwelling or, when expressly allowed by district regulations as a type of dwelling permitted therein, a manufactured home or modular home. To compute the number of eligible building sites on a lot of record of forty (40) acres or more, the total acreage of the parcel shall be divided by forty (40) acres. The resulting whole number is the number of eligible building sites on the lot of record.
- **Extraterritorial Areas.** The areas of the County outside a municipality where the Board of County Commissioners has granted to such municipality joint zoning powers within such areas.

- **Family.** One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law, in addition to those who are so related. In addition, the following persons shall be considered related by blood or law for purpose of this Ordinance: (1) a person residing with the family for purpose of adoption; (2) not more than six persons under age eighteen, residing in a foster home licensed or otherwise approved by governmental authority; (3) not more than four persons nineteen years of age or older residing with the family for purpose of receiving foster care licensed or otherwise approved by governmental authority; and (4) any person who is living with the family by direction of a court.

- **Farm.** A bona fide business, engaged in *agriculture*, for the production of agricultural products. Land comprising the farm may be included, or includable within, the "Farmland/Open Spaces Protection District".

- **Farmstead.** That portion of a farm consisting of a farm dwelling or dwellings, agricultural buildings and structures devoted to and used as a farm, in an agricultural operation, generally bounded on one or more sides by windbreaks, but excluding crop or pasture land therein.

- **Flood Insurance Rate Map (FIRM).** An official map of Lincoln County on which the Federal Insurance Administration has delineated the areas of flood hazard and their potential for flooding.

- **Floodplain.** A land area adjoining a river, creek, watercourse, or lake which is likely to be flooded and which is designed on the FIRM as Zone A, A0 or Al-A30, which areas are also included within the "Resource Protection District", as provided in Article Nine.

- **Floor Area.** The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. Does not include porches, garages, or space in a basement or cellar, when said space is used for storage or incidental uses.

- **Frontage.** All the property on one side of a street or highway, between two intersecting streets (crossing or terminating) or for a distance of 400 feet on either side of a proposed building or structure, measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street, but not including property more than 400 feet distant on either side of a proposed building or structure.
- **Garage, Private.** A detached accessory building, or portion of main building, housing the automobiles of the occupants on the premises, but not including commercial vehicles.

- **Garage, Public.** A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing or parking motor driven vehicles. The term "repairing" shall not include body repair shop or rebuilding, dismantling or storage of wrecked or junked vehicles.

- **Garage, Storage.** Any building or premises, used for housing only motor driven vehicles, other than trucks and commercial vehicles.

- **General Manufacturing.** Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.

- **Ground Water.** Subsurface water that fills available openings in rock or soil materials such that it may be considered water saturated.

- **Home Occupation.** A home occupation is any occupation (including a profession) carried on in conformity with Section 1107 of this Ordinance.

- **Kennel.** Any premise or portion thereof where dogs, cats, or other household pets are raised, trained, boarded, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded from this definition.

- **Light Manufacturing.** Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building.

- **Loading Space.** A space within the main building or on the same lot for the standing, loading or unloading of trucks or other commercial vehicles.

- **Lot.** A parcel or tract of land having specific boundaries, the deed or other instrument creating same having been recorded in the office of the Lincoln County Register of Deeds.

  A lot used for residential purposes shall include only one main building together with its accessory buildings, open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

- **Lot Area.** The lot area is the area of an horizontal plane bounded by the front, side and rear lot lines. Public right-of-way shall not be considered part of the lot area.
- **Lot, Corner.** A lot or parcel of land abutting upon two or more streets or roads at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

- **Lot of Record.** Part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds, Lincoln County in conformity with the requirements of this Ordinance or other ordinances of Lincoln County, or other parcel of land for which the deed, instrument, judgment, or decree establishing same or an agreement to convey, was recorded in the office of the Register of Deeds prior to the effective date of this Ordinance. Any such part or parcel shall be referred to herein as a "lot of record".

- **Lot Width and Depth.** The width of a lot at the front yard line, or the mean horizontal distance between the front and rear lot lines.

- **Major Street.** Streets or roads which have been designated as freeways or arterial routes on the major street plan or major road/transportation plan adopted by the County, or any municipality therein.

- **Map, Official Zoning.** The map or maps as are legally adopted by resolution, and amended by resolution, of the Board of County Commissioners, and which delineate the boundaries of the several zoning districts within the County.

- **Mobile Home.** See Dwelling, Manufactured Home.

- **Neighborhood Utility Facility.** Telephone, electric and cable television lines, poles and equipment; water or gas pipes, mains and valves; sewer pipes, valves and lift stations; telephone exchanges and repeaters; and all other facilities and equipment necessary for conducting a utility service by a governmental subdivision or entity, or a public utility, a rural water system, a nonprofit rural water system, a nonprofit water system, a water district, a sanitary sewer district, or any entity that provides utility service directly or indirectly to the members of the public. This definition excludes: (i) buildings having a roof area of more than 120 square feet, and (ii) electrical substations. **Amended effective 5-25-05.**

- **Nonconforming Building.** A building (or other structure) which does not comply with all of the regulations of this Ordinance or any amendment hereto governing buildings in the zoning district where located, or which was designed or intended for a nonconforming use.

- **Nonconforming Uses.** A use of land, buildings, or premises that lawfully existed prior to the adoption, revision or amendment of this Ordinance (in any relevant particulars), but which fails, by reason of any such adoption, revision or amendment, to conform to the present use restrictions or regulations of the zoning district in which it is located.
• **Nonstandard Use.** The category of nonconformance consisting of lots occupied by buildings or uses which existed immediately prior to the effective date of this Ordinance and which fail to comply with any of the following requirements hereof:

  minimum lot or areas, density, width, yard requirements, height, unobstructed open space, or parking for the district in which located, even though the use of the premises otherwise conforms to the permitted uses within the district as set forth in this Ordinance.

• **Open Spaces.** Those areas of Lincoln County which, due to proximity to the environs and drainage areas of the Big Sioux River, are scenic and generally undeveloped beyond present agricultural uses, and as are reflected within the "Farmland/Open Spaces Protection District" map, as provided for in Article Nine.

• **Outdoor Storage.** The keeping, in an open or unroofed area (other than in a salvage or junkyard), any goods, junk, material, or vehicles continuously in the same place for more than twenty-four (24) hours.

• **Parking Space.** An area, enclosed or open, sufficient in size to store one automobile, together with a driveway connection the space with a street and permitting ingress and egress of an automobile.

• **Permissive Uses.** Any use allowed in a zoning district, subject to restrictions (if any).

• **Permitted Special Uses.** A use generally allowed in a zoning district but subject to the express, specified, or special restrictions applicable to that zoning district.

• **Personal Services.** Establishments primarily engaged in providing services for the care of the person or apparel, including laundry, cleaning, photographic or art studios, beauty or barber shop, shoe repair, health club and clothing rental.

• **Planning Director, Zoning Officer.** The individual appointed by the Board and designated to administer and enforce this Zoning Ordinance, principal officer in charge of Planning Office.

• **Public Utility Facility.** *The definition is the same as Neighborhood Utility Facility (See Neighborhood Utility Facility) except that buildings exceeding 120 square feet in roof area are allowable.* Amended effective 5-25-05.

• **Principal Building; Principal Use.** A building, on a lot, in which the primary or predominant use of the lot is conducted; the primary or predominant use of any lot.

• **Quarter-Quarter Section.** A quarter of a quarter section as determined by the United States Rectangular Land Survey System ("System"). A government lot or outlot as determined by the System shall be considered a quarter-quarter section for purposes of these regulations;
and, for purposes of these regulations, rights-of-way for public or private transportation (including roads) shall not diminish the area of a parcel which would otherwise qualify as a quarter-quarter section.

- **Recycling Facility.** A facility for the temporary indoor storage and collection of non-regulated, non-hazardous substances, which are sorted, processed, or assembled into quantities intended for movement to a recognized program or processor of recycled materials, including by way of illustration, glass bottles or containers, plastic bottles or containers, cardboard or paper products or materials, or aluminum containers. Does not include a salvage or junk yard.

- **Regulated Substance.** Includes: (i) pesticides and fertilizers, (ii) hazardous and toxic substances designated by the Environmental Protection Agency through any of the following federal acts or regulations promulgated pursuant thereto:
  
  Clean Water Act, Toxic Substances Control Act, Comprehensive Environmental Response Compensation and Liability Act; (iii) petroleum and petroleum substances, kerosene, fuel oil, oil sludge, oil refuse, used oil, oil mixed with other wastes, crude oils, additives used in refining oils and gasoline.

- **Retail Sale and Trade.** Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption, including services or entertainment to the general public, such as hotels, motels, repair shops, copying service, health and other professional services, restaurants, and other miscellaneous services.

- **Resource Protection District.** An overlay district, consisting of flood-prone lands or areas, and other types of soil deemed unsuitable for permanent structures, as set forth in Article Nine.

- **Salvage or Junk Yard.** An open area where waste or scrap materials are bought, sold, stored, packed or handled, including iron and other metals, paper, rags, rubber tires, bottles, motor vehicles and parts thereof, including outside wrecking, dismantling, or salvage yards.

- **Sanitary Landfill.** A site for the disposal of garbage and other refuse materials.

- **Setback, Setback Line.** That line that is the required minimum distance from any lot line that establishes the area within which the principal building must be erected or placed, no portion of which may include roads, ditches or other dedicated or statutory rights-of-way.

  ORD REV effective 2003 03 03

- **Sign (On-Site, Off-Site).** Any object, device or structure, or portion, situated outdoors or visible from outdoors, used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any
means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. Does not include national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or official announcements of or signs maintained by government or agencies thereof. **On-site signs** are maintained on the same lot as the use or building connected with the sign, and within the immediate proximity thereof. **Off-site signs** are situated on a lot other than that on which the use or building connected with the sign is maintained or conducted.

- **Site Plan Review.** An application process initiated by owner or developer to obtain review and approval by the Planning Commission of all plans for a development, project or work, when required under this Ordinance, which if hearing is required or requested, may be conducted at the same time as hearings before, and within the jurisdiction of, the Planning Commission on matters of Zoning applications, Conditional Use Permit applications or Special Development Permit applications.

- **Solid Waste Receiving Station.** A facility where garbage and other refuse material is collected at a central location, compacted and then transported for disposal at a landfill site.

- **Special Development Permit.** A permit required for undertaking certain development, projects or work within the area of any zoning district when covered by the "Farmland/Open Spaces Protection District" Regulations, Article Nine of this Ordinance.

- **Stable.** Any premise or portion where horses or any equine animal are maintained, boarded, bred or cared for in return for remuneration, or kept for purpose of sale.

- **Stationary Tank.** An above ground tank permanently fixed in place on a foundation, rack, cradle, stilts or on the ground. Does not include tanks mounted on wheels, trolleys, skids, pallets, or rollers.

- **Story.** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

- **Street, Street Line.** A public right-of-way which affords the principal means of access to abutting property, also referred to as a road or highway. **Street line** is the line between the public right-of-way and private property.

- **Structure.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. For purposes of these regulations, retaining walls, concrete slabs and utility poles are not considered structures.

- **Subdivision.** The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of
subdividing or to the land subdivided, in accordance with this Ordinance and the Subdivision Ordinance.

- **Surface Impoundment.** A facility, or portion thereof, which is a natural topographic depression, man-made excavation or dike area formed primarily of earthen materials (whether or not lined with man-made materials), designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples include holding, settling, storage and aeration ponds, pits, and lagoons.

- **Trailer.** Means any of the following: (1) *travel trailer*, a portable, vehicular structure on chassis, designed for use as temporary dwelling during travel, recreational and vacation, permanently identified as travel trailer by manufacturer, not exceeding 102” in width, and body length of more than 30’; (2) *pick-up coach*, a structure designed for mounting on truck chassis for use as temporary dwelling during travel, recreational and vacation; (3) *motor home*, a portable self-powered, temporary dwelling; (4) *camping trailer*, a canvas, folding structure mounted on wheels, designed for travel, recreation and vacation use.

- **Truck Stop.** Any building, premises or land in which or upon which a business, service or industry involving maintenance, servicing, storage or repair of commercial vehicles is conducted, including dispensing of fuels directly into motor vehicles, and sale of accessories or equipment for trucks and similar commercial vehicles. Truck stop may also include overnight accommodations and restaurant facilities.

- **Variance.** A variance is a relaxation of the terms of this Ordinance where, owing to some singular and particular condition of the land not common to other properties in the district, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. A variance may not be granted to permit a use otherwise prohibited by this Ordinance.

- **Warehouse.** A building used primarily for the storage of goods and materials.

- **Waste.** Any garbage, refuse, manure, sludge from a waste treatment plant, water treatment plant, air pollution control facility, and other discarded materials, including liquids, solids, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, or community activities, but not including solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Water Pollution Control Act, as amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended.

- **Wastewater System, On-Site and Small or Individual.** A on-site wastewater treatment or dispersal system, including a "small on-site wastewater" and "individual on-site wastewater system", as defined and as installed and operated in compliance with the requirements set forth in SDCL Chapter 34A-2, and the regulations of the South Dakota Department of
Environment and Natural Resources, ARSD 74:03:01:38, et seq., (as revised through August 8, 1994).

- **Wholesale Merchandising/Trade.** Establishments primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business end-users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

- **Wind Energy Conversion System (WECS).** Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.

- **Yard.** An open space, other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise allowed or allowable consistent with this Ordinance; **Front Yard:** A yard across the full width of the lot, extending from the front line of the main building to the front line of the lot; **Rear Yard:** A yard extended the full width of the lot between a principal building and the rear lot line; **Side Yard:** A yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.

- **Zoning Board of Adjustment.** That board or body, when so appointed or constituted by the Board of County Commissioners, exercising jurisdiction to determine appeals and other matters pursuant to Article Seventeen of this Ordinance.

- **Zoning District.** A specifically delineated area (as shown on the official zoning map) within which the regulations of this Ordinance uniformly govern the use, placement, spacing, and size of land and buildings.

**Zoning Permit.** A document signed by the Planning Director (or authorized representative) as condition precedent to commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use or building, as represented or disclosed to the Planning Director consistent with this Ordinance and if commenced or undertaken in conformity therewith, complies with the provisions of the regulations of this Ordinance or authorized variance therefrom.

**ORDINANCE REVISION effective 2002 03 13**
ARTICLE 4: REGULATIONS FOR
THE "A" AGRICULTURE - PUBLIC USE DISTRICT

Section 401. The intent of the "A" District is to provide for farm and agricultural use and to preserve those lands best suited for agricultural use and low population density from further encroachment from incompatible uses. It is expressly recognized that because of the nature of both agricultural activities and residential subdivisions that these two specific uses are generally poor neighbors, and therefore a concentration of housing in the "A" District shall be discouraged. It is the further intent of this District to preserve in agricultural production those lands now in production, pending proper timing and eventual development thereof into other uses compatible with the particular area, contingent upon the practical and economical provision of governmental infrastructure improvements, including utilities, roads, major streets, schools, and other facilities, leading to a relatively compact development.

Section 402. Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the "A" District:

(A). Agriculture.
(B). Farm Dwelling or Single-family Dwelling, when each of the following "building eligibility" conditions are satisfied:
   1). Each quarter-quarter section shall have one (1) eligible building site under the following conditions:
      a). No other dwellings are located on the quarter-quarter section;
      b). The quarter-quarter section is located within the "A" District;
      c). The quarter-quarter section abuts a public road in such a manner that the conveyance of the parcel for a building site shall have road frontage;
      d). Access to the public road has been approved by the governing entity having requisite jurisdiction;
      e). The building site shall be a minimum of one acre, and contained within an approved plat thereof, if ownership thereof is to be transferred;
      f). The balance of the quarter-quarter section is retained as agricultural land or in its present use within the "A" district.
(C). Church
(D). Historical Sites.
(E). Neighborhood Utilities Facility
(F). Railroad right-of-way, signals and controls.
(G). Public parks, playgrounds, golf courses.

Section 403. Permitted Special Uses. A building or premises may be used for the following purposes in the “A” District in conformance with the conditions prescribed in this Section 403, or by obtaining a Conditional Use Permit for such use in conformance with Article Fifteen of this Ordinance:

(B). Concentrated Animal Feeding Operation, not within a Farmstead, subject to intensity of use not exceeding 200 Animal Units, and not within 600’ of the lot line or any public road.
(C). **Airport**, for public or private use, without paved runway or all-weather navigational aids.

(D). **Farm Dwelling**, one (1) additional within a Farmstead, if:

1. Said dwelling is to be located within the clear or intended perimeter of the farmstead;
2. Total number of dwellings within the Farmstead does not exceed two (2);
3. Dwelling is occupied by employees or relatives of Farm Operator;
4. Farmstead is located on one or more quarter-quarter section parcels (or equivalent area);
5. Additional dwellings (more than 1 additional) for immediate family members, through Conditional Use Permit, may be permitted on the Farmstead.

(E). **Farm Dwelling or Single-family Dwelling,**

(1). located on a Lot of Record consisting of less than 80 acres, containing no other dwellings, under the following "building eligibility" conditions:

a). The Lot of Record is located entirely within the "A" District;
b). The Lot of Record abuts a public road in such a manner that the use or conveyance of a building site thereon shall have road frontage;
c). Access to the public road has been approved by the governing entity having requisite jurisdiction;
d). The building site shall be a minimum of one acre, and contained or described within an approved plat thereof, if ownership thereof is to be transferred or severed from the Lot of Record.
e). The balance of the Lot of Record is retained as agricultural land or in its present use within the "A" district.

(F). **Farm Dwelling or Single-family Dwelling,**

(1). located on a Lot of Record consisting of more than 80 acres, if "building eligibility" is determined to exist with the following formula, and under the following conditions:

a). The acreage of the Lot of Record shall be divided by 40 acres; the resulting whole number minus the number of existing dwellings on the Lot of Record shall represent "building eligibility", if any;
b). If more the Lot of Record contains more than one (1) building eligibility, each additional site thereon shall be required to obtain a Conditional Use Permit;
c). The Lot of Record is located entirely within the "A" District;
d). The Lot of Record abuts a public road in such a manner that the use or conveyance of the building site(s) thereon shall have or result in road frontage;
Section 404. Conditional Uses. A building or premises may be used for the following purposes in the "A" District if a Conditional Use Permit has been obtained therefor in conformity with the requirements of Article Fifteen of this Ordinance:

(A). Rock, sand or gravel extraction, including temporary sites, in conformity with Section 1105 of this Ordinance.

(B). Airport, for public use, with paved runway and other permanent improvements and navigational aids.

(C). Farm Dwelling or Single-family Dwelling, on a parcel which is not a Lot of Record, if:

1). The deed of conveyance to the parcel was recorded with the Register of Deeds, Lincoln County, prior to the effective date of this Ordinance;

2). No other dwellings are located on the parcel, except that a parcel of 80 acres or more shall have building eligibility determined as follows:
   a). The acreage of the parcel shall be divided by 40; the resulting whole number minus the number of existing dwellings on the parcel shall represent "building eligibility", if any;
   b). Each building site shall consist of a minimum of one acre.

3). The building site shall not conflict with other existing or potential land use activities or the prevailing pattern of development.

4). Soil conditions are acceptable for a building site.

5). Access to public road has been approved by the governmental entity having requisite jurisdiction.

(D). Manufactured Home, or Modular Home, when proposed for use as a Farm Dwelling or Single-family Dwelling, and "building eligibility" otherwise exists for the Lot of Record, and is otherwise in conformity with the requirements of Section 402(B), Section 403(D), (E), or (F), or Section 404(C), as may be applicable.

(E). Group day care.
(F). Garden Center.
(G). Kennel.
(H). Stable.
(I). Cemetery.
(J). Fireworks sales, seasonal, not exceeding 15 days.
(K). Roadside stand.
(L). Trap shoot, range.
(M). Broadcast tower.
(N). Public facility, owned and operated by governmental entity or subdivision.
(O). Nursing home.
(P). Fairgrounds or rodeo grounds.
(Q). Civic, social, fraternal, or non-profit facilities, for meetings or recreational activities.
(R). Uses, otherwise described in Section 403 of this Ordinance, for which Conditional Use Permit is sought in conformity with Article Fifteen of this Ordinance.
(S). Off-site signs, for or associated with those uses otherwise authorized in the "A" District or the "C" District, and on-site signs, all in conformity with Article Thirteen of this Ordinance.
(T). Livestock sales barn.
(U). Sanitary landfill, solid waste receiving station.
(V). Agriculturally-related operations, handling, processing, storage and shipping of farm products.
(W). Concentrated animal feeding operation.
(X). School.
(Y). Transfer of a "building eligibility" site, for farm dwelling or single-family dwelling use, from one quarter-quarter section to another quarter-quarter section when all of the following conditions are met:

1). No other dwellings on the quarter-quarter section from which the building eligibility is being transferred;
2). The transfer of building eligibility shall occur only between contiguous parcels under the same ownership, entirely within the "A" District;
3). Suitability as a building site based on following factors:
   a). Agricultural productivity of the soil.
   b). Soil restrictions or limitations.
   c). Orientation of the building site(s) with respect to road circulation, access to public right-of-way.
4). Minimum lot size of one acre, subject to larger lot size requirements when warranted by soil conditions;
5). Quarter-quarter section from which building eligibility site is transferred shall continue in use as agricultural land or other present use authorized in the "A" District.

**ORDINANCE REVISION** effective 2002 03 13


(AA) Electrical Substation. Amended effective 5-25-05.
Section 405. Accessory Uses. Accessory uses and buildings shall be permitted in the same manner as the principal buildings and uses to which they are customarily incident.

ORDINANCE REVISION effective 1998 07 05

Section 406. Parking Regulations. All parking within the "A" District shall be regulated in conformity with the provisions of Article Twelve of this Ordinance.

Section 407. Sign Regulations. Signage permitted in the "A" District shall be regulated in conformity with the provisions of Article Thirteen of this Ordinance.

Section 408. Area, Yard & Height Regulations. The maximum height and minimum lot requirements within the "A" District shall be as follows:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area:</td>
<td>1 Acre, except when larger lot is required by Conditional Use Permit.</td>
</tr>
<tr>
<td>Lot Width:</td>
<td>125’</td>
</tr>
<tr>
<td>Front Yard:</td>
<td>30’, except 70’ on section line road.</td>
</tr>
<tr>
<td>Side Yard:</td>
<td>20’</td>
</tr>
<tr>
<td>Rear Yard:</td>
<td>20’</td>
</tr>
<tr>
<td>Maximum Height:</td>
<td>35’;200’ for broadcast towers, telecommunications towers, antenna support structures including antennae, and wireless communications facilities, except as provided in Section 1112 (B) (3); no limit shall apply for farm structures or wind energy conversion systems.</td>
</tr>
</tbody>
</table>

(B). Front yard required on each street of double frontage lots.
(C). If Lot of Record has less area or width than herein required and its boundary lines along the entire length abutted lands under other ownership on the effective date of this Ordinance and have not since changed, such parcel may be used for any use permitted in this District.
(D). Buildings with side yard setbacks less than required herein may have additions erected in line with existing building, provided that said additions will be erected no closer to lot line than existing building.
(E). Buildings may be located within the required front yard but no closer to the public right-of-way than a legal nonconforming building provided the building is no greater than 150 feet from the nonconforming building.
ARTICLE 5: REGULATIONS FOR
THE “C” COMMERCIAL - SERVICE DISTRICT

Section 501. The intent of the "C" District is to provide for a wide variety of commercial and service uses generally located at major intersections and along major state or county roads, including the interstate highway system within the county. The C District includes general commercial uses requiring large land areas, extensive retail operations, outdoor display and related storage areas.

Section 502. Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the "C" District:

(A) Office.
(B) Bank or financial institution.
(C) Group day care, day care center, group home.
(D) Mortuary.
(E) Indoor Recreational Facility.
(F) Nursery or greenhouse.
(G) Church.
(H) Neighborhood Utility Facility. Amended 5-25-05.

Section 503. Permitted Special Uses. A building or premises may be used for the following purposes in the "C" District in conformance with the conditions prescribed in this Section 503, or by obtaining a Conditional Use Permit for such use in conformance with Article Fifteen of this Ordinance:

(A) Retail sales and trade, personal services, communication facilities, and warehousing, provided:
   (1) No outside storage is conducted on the premises.
   (2) No storage of a regulated substance is undertaken.
   (3) The building contains 10,000 square feet of area or less.
(B) Veterinarian clinic, provided no outside kenneling of dogs.
(C) Frozen food locker, containing 10,000 square feet of area or less.
(D) On-site Signs, for uses authorized in the "C" District, in conformity with Article Thirteen of this Ordinance.

Section 504. Conditional Uses. A building or premises may be used for the following purposes in the "C" District if a Conditional Use Permit has been obtained therefor in conformity with the requirements of Article Fifteen of this Ordinance:

(A) Wholesale trade.
(B) Bar or lounge.
(C) Equipment sales, display, service, rental, or repair.
(D) Motor vehicle sales, display, service, rental, or repair.
(E) Auto body shop.
(F) Transportation services, including automobile service station, truck stop and terminals.
(G) Recycling facility.
(H) *Fireworks sales*, from permanent facility, seasonal activity exceeding 15 days annually.

(I) *Lumberyard, building construction center.*

(J) *Contractor's shop and storage yard.*

(K) *Car wash*

(L) *Hotel, motel*

(M) *Hospital*

(N) *Campground*

(O) *Commercial recreation facility*

(P) *Wind energy conversion system*

(Q) *Broadcast Tower, Telecommunications towers, Antenna Support Structures including antennae, and Wireless Communications Facilities*

(R) *Electrical substation*

(S) *Uses which store or handle a regulated substance*

(T) *Off-site Signs*, for uses otherwise authorized in the "C" District, in conformity with Article Thirteen of this Ordinance.

(U) *Garage, public storage*

(V) *Commercial tourist attractions*

(W) *Meat packing, curing or preparation*, provided on-site kill is average of 250 animal units or less per year, with no outside pens, chutes or storage of wastes.

(X) *Public Utility Facility. Amended 5-25-05*

**Section 505. Accessory Uses.** Accessory uses permitted in the "C" District are accessory buildings and uses customarily incident to any permitted uses in this District.

**Section 506. Parking Regulations.** Parking within the "C" District shall be regulated in conformity with Article Twelve of this Ordinance.

**Section 507. Sign Regulations.** Signs within the "C" District shall be regulated in conformity with the provisions of Article Thirteen of this Ordinance.

**Section 508. Density, Area, Yard and Height Regulations.** A maximum height and minimum lot requirements within the "C" District shall be as follows:

(A) **General Requirements:**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>1 acre, unless otherwise established in Conditional Use Permit.</td>
</tr>
<tr>
<td>Lot Width:</td>
<td>None</td>
</tr>
<tr>
<td>Front Yard:</td>
<td>30', except 70' on section line road.</td>
</tr>
<tr>
<td>Side Yard:</td>
<td>20'</td>
</tr>
<tr>
<td>Rear Yard:</td>
<td>20'</td>
</tr>
<tr>
<td>Maximum Height:</td>
<td>35'; 200' for broadcast towers, telecommunications towers, antenna support structures including antennae, and wireless communications facilities, except as provided in section 1112 (B)(3).</td>
</tr>
</tbody>
</table>

(B) *Front yard* required on each street of double frontage lots.

(C) Any accessory use shall comply with the height, front, rear and side yard requirements of the main building.

(D) *Buildings* with side yard setbacks less than required herein may have additions erected in
line with existing building, provided that said additions will be erected no closer to lot
line than existing building.

(E). *Buildings* may be located within the required front yard but no closer to the public right-
of-way than a legal nonconforming building provided the building is no greater than 150
feet from the nonconforming building.
ARTICLE 6: REGULATIONS FOR 
THE “I” INDUSTRIAL DISTRICT

Section 601. The intent of the "I" District is to provide for a full range of light to heavy manufacturing, wholesale, warehousing and service industries, generally along major roads within the county. When located next to residential areas, these regulations provide for high amenity development requirements for the "I" District, while allowing for heavier uses and development in the interior of such areas.

Section 602. Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the "I" District:
(A). Office.

Section 603. Permitted Special Uses. A building or premises may be used for the following purposes in the "I" District in conformance with the conditions prescribed in this Section 603, or by obtaining a Conditional Use Permit for such use in conformance with Article Fifteen of this Ordinance:
(A). Warehousing and repair services, and communication facilities, and, provided:
   (1). No outside storage is conducted on the premises.
   (2). No storage of a regulated substance is undertaken.
   (3). The building contains 20,000 square feet of area or less.
(B). Veterinarian clinic, provided no outside kenneling of animals.
(C). Frozen food locker, containing 20,000 square feet of area or less.
(D). On-site Signs, for uses authorized in the "I" District, in conformity with Article Thirteen of this Ordinance.
(E). Uses, as would otherwise be appropriate in the "C" District, as listed in Section 502 and Section 503 of this Ordinance.

Section 604. Conditional Uses. A building or premises may be used for the following purposes in the "I" District if a Conditional Use Permit has been obtained therefor in conformity with the requirements of Article Fifteen of this Ordinance:
(A). Light, General or Heavy Manufacturing.
(B). Extraction or processing of rock, sand, gravel
(C). Stockyards, Animal Slaughter, Meat Packing or Processing, Rendering.
(D). Refining, Distillation.
(E). Sanitary landfill, solid waste receiving station, Recycling facility.
(F). Tank farm, Petroleum or natural gas products terminal
(G). Salvage or junkyard.
(H). Concrete ready-mix plant.
(I). Asphalt batch plant.
(J). Uses, similar to any listed, but not otherwise specified.
(K) Public Utility Facility. Amended 5-25-05.
Section 605. Accessory Uses. Accessory uses permitted in the "I" District are accessory buildings and uses customarily incident to any permitted uses in this District.

Section 606. Parking Regulations. Parking within the "I" District shall be regulated in conformity with Article Twelve of this Ordinance.

Section 607. Sign Regulations. Signs within the "I" District shall be regulated in conformity with the provisions of Article Thirteen of this Ordinance.

Section 608. Area, Yard and Height Regulations. A maximum height and minimum lot requirements within the "I" District shall be as follows:

(A). General Requirements:
- Lot Area: 1 acre, unless otherwise established in Conditional Use Permit.
- Lot Width: None
- Front Yard: 30', except 70' on major street or section line road.
- Side Yard: 20'
- Rear Yard: 20'
- Maximum Height: 55'; 200' for broadcast towers, telecommunications towers, antenna support structures including antennae, and wireless communications facilities, except as provided in section 1112 (B)(3).
ARTICLE 7: REGULATIONS FOR
THE “P” PLANNED DEVELOPMENT DISTRICT

Section 701. The intent of the "P" District is to provide for flexible development planning, apart from conventional zoning regulations as may otherwise pertain in other Districts established under this Ordinance, with increased public review for "P" District projects in order to:

(A). Encourage well-planned, efficient development;

(B). Allow a planned and coordinated mix of land uses which are compatible and harmonious, but previously discouraged by conventional zoning procedures and practices;

(C). Encourage the redevelopment of contiguous large lot parcels into an integrated and orderly subdivision pattern, with particular attention to development of efficient and coordinated networks of internal streets;

(D). Promote the clustering of residential structures and other uses without increasing the overall density of the development area in order to preserve the unique and natural features such as woodlands, native prairies, natural drainage systems, and scenic areas;

(E). Protect ecologically-sensitive areas and those lands with restrictive soil conditions or soil limitations within development areas through clustering of uses on land more suited for building;

(F). Reserve adequate public right-of-way within development areas for the eventual extension of arterial and collector streets, including proper width and spacing of such streets; and

(G). Improve communication and cooperation among the County, townships, land developers, property owners, and interested residents of the County, in the development of agricultural land and redevelopment of existing areas. It is not the intent of the "P" District to accommodate or encourage the development of isolated small tracts where adjoining parcels are not considered within an overall development scheme.

Section 702. Procedure.

(A). Initial Development Plan.

Those petitioners proposing a rezoning action to the "P" District shall submit a written request to the Planning Director containing the information specified in Section 703 (the "Initial Development Plan"), not less than 30 days prior to the Planning Commission meeting at which consideration is requested. After review of the Initial Development Plan, the Planning Commission shall make and forward its recommendation thereon to the Board, and the Board shall then approve or deny the request. The request for rezoning to the "P" District is subject to the requirements for amendment of the zoning regulations for the District, as set forth in Article Seventeen. No permit shall be issued within the proposed development until the Final Development Plan is approved and the plat is duly approved and recorded.

(B). Final Development Plan.

Prior to issuance of any permit and the commencement of any construction on any lots therein, petitioner shall present to the Planning Commission a Final Development Plan showing the information specified in Section 704. The Planning Commission shall have sole authority to approve, deny or amend said Final Development Plan.
(C). Amendments

(1). Major Amendments. Major amendments to either the Initial and/or Final Development Plan shall be reviewed and approved as an amendment to the zoning regulations, requiring review and recommendation of the Planning Commission and approval by the Board.

(2). Minor Amendments. Minor amendments to the Initial and/or Final Development Plan shall be reviewed and approved by the Planning Commission at hearing, notice of which shall be given by the posting of a sign on the subject property in accordance with Section 1604 of this Ordinance. Minor amendments to the Initial Development Plan may also be made by the submission and approval of a Final Development Plan which is changed from the approved Initial Development Plan. Any such amendments shall be clearly shown on the Final Development Plan (and listed as such by separate writing) as a change from the Initial Development Plan.

(3). Minimal Amendments. Minimal amendments to the Final Development Plan shall be submitted to the Planning Director on a reproducible development plan showing the requested changes. The Planning Director may then approve such change in writing, if deemed appropriate.

Section 703. Initial Development Plan. Upon application for rezoning of land to the "P" District, petitioner shall present an Initial Development Plan to the Planning Commission for review and the Board for approval (and which upon approval shall be recorded with the Register of Deeds), showing the following information:

(A). Project name and legal description;
(B). Preliminary subdivision plan;
(C). Proposed development scheme, showing the following information:
   (1). Proposed land uses, including number and type of residential buildings, proposed number of dwelling units per building, the number and type of proposed nonresidential buildings, and square footage;
   (2). Proposed maximum density of the development, which shall not exceed the density allowed in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such densities undesirable;
   (3). Proposed minimum setbacks which shall be no less than those required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such setbacks undesirable;
   (4). Proposed maximum height which shall be no greater than that allowed in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such heights undesirable;
   (5). Proposed design features illustrating compatibility to the surrounding environment and neighborhood; and
   (6). Anticipated subarea development sequence.

Section 704. Final Development Plan. Prior to construction on any lots in the "P" District at issue, petitioner shall present a Final Development Plan to the Planning Commission for approval. Final
Development Plan shall show the following information:

(A). Subdivision name, legal description, and individual project name (if any);
(B). Boundaries of each subarea or subareas submitted for approval, superimposed on the map of the Initial Development Plan;
(C). A subdivision plat of the subarea or subareas submitted for approval;
(D). A copy of the written covenants, if any, which petitioner proposes to impose upon all or any area within the District;
(E). A scale drawing showing the following information on all uses in all subareas (except for single-family dwelling subareas):
   (1). Size, height and number of proposed structures;
   (2). Calculated floor area of each structure and generic listing of uses for each;
   (3). Off-street parking lot arrangement designating all parking spaces, off-street loading spaces, and any outdoor trash container spaces;
   (4). Sidewalks, bikeways, or other pathways;
   (5). Landscaping plans showing type and location of any walls or fences, placement, size and species of trees or shrubs, and berms in areas that will be seeded or sodded;
   (6). All existing and planned utilities, drainage ways, water courses, and location of above-ground existing utilities on adjacent properties.
   (7). proposed final ground contours;
   (8). drainage plan;
   (9). existing and proposed uses adjacent to the area;
   (10). the book and page number of the recorded Initial Development Plan;
   (11). documentation of the ownership and maintenance responsibility of any common open areas, structures, or facilities, including private streets and paths;
   (12). any subareas proposed for multiple residential development will be required to provide an open area for recreation, which open area shall not be included in any required yard, and shall be located in the same subarea it is intended to serve;
   (13). proposed parking and loading spaces which shall be in conformance with Article Twelve, except where unique physical, environmental or design characteristics make such requirements undesirable;
   (14). proposed on-site wastewater systems and facilities; and
   (15). unless otherwise specified on the Final Development Plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each subarea as a part of the Final Development Plan. For example: townhouses on Block X shall be developed in conformance with the requirements of the "R" Rural Residential District.

Section 705. Amendments.

(A). Major Amendments. The following changes in an Initial and/or Final Development Plan are considered major amendments:
   (1). Any change in the proposed land uses;
   (2). Any major change in the street pattern; or
   (3). An increase in density above that provided for in (B)(5), below.
(B). Minor Amendments. The following changes in an Initial and/or Final Development Plan
are considered minor amendments:

(1). Any adjustment in the size or shape of the building or its location ("building envelope");
(2). Major decrease in density;
(3). Any decrease in the size of required open areas;
(4). A minor change in the street pattern;
(5). Any increase in density of a subarea which is:
   (i) less than 25% for a subarea with less than eight (8) units;
   (ii) less than 15% for a subarea with between nine (9) and twenty (20) units;
   (iii) less than 8% for a subarea with twenty-one (21) units or more.
(6). Any change in the number of parking spaces.

(C). Minimal Amendments. The following changes in an Initial and/or Final Development Plan are considered minimal amendments:

(1). Any adjustment of a building within a previously established building envelope;
(2). A minor reduction in density.

Section 706. "P" Planned Development Districts. Those approved development areas within the "P" Planned Development District shall be assigned a sequential section number following this Section 706, in accordance with the date of approval, and shall be set forth in Appendix A to this Ordinance, the provisions of which, as amended and revised from time to time, are incorporated herein by this special reference, as though set forth in full following.
ARTICLE 8: REGULATIONS FOR
THE “R” RURAL RESIDENTIAL DISTRICT

Section 801. The "R" District is intended to protect a vigorous agricultural industry by limiting those areas in which the "R" Rural Residential District can be established. Where permitted, the "R" District shall generally be located where provision can be made to adequately handle sewage disposal (including on-site treatment or dispersal of wastewater, if applicable and soil conditions are suitable), where value of the land for agricultural production and uses is marginal, and where the water supply, roads and other services requisite to properly serve a residential area are easily and economically available.

Section 802. Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the "R" District:

(A). Single-family Dwelling, served by a central sewer line.
(B). Public park, playground or swimming pool.

Section 803. Permitted Special Uses. A building or premises may be used for the following purposes in the “R” District in conformance with the conditions prescribed in this Section 803, or by obtaining a Conditional Use Permit for such use in conformity with the requirements of Article Fifteen of this Ordinance:

(A). Single-family dwelling, served by an on-site wastewater system, installed and operated in accordance with Section 1104 of this Ordinance
(B). Church, subject to the building begin adjacent to an arterial street or section line road;
(C). Elementary and high school, subject to frontage shall abut on an arterial street or section line road and main building shall be set back 25 feet from the side lot line;
(D). Accessory buildings, subject to no single building exceeding 1,200 square feet in area;
(E). Home Occupation, in conformity with Section 1107 of this Ordinance.

Section 804. Conditional Uses. A building or premises may be used for the following purposes in the "R" District if a Conditional Use Permit for such use has been obtained in conformity with the requirements of Article Fifteen of this Ordinance:

(A). Manufactured Home /Modular Home park, in conformity with Section 1 108 of this Ordinance.
(B). Manufactured Home /Modular Home subdivision, in conformity with Section 1 108 of this Ordinance.
(C). Dwellings, Multiple Family or Two-Family.
(D). Day care center.
(E). Group home.
(F). Nursing home.
(G). Cemetery.
(H). Kennel.
(I). Stabling of horses, owned by resident on the property, no commercial operation.
(J). Golf course.
(K). Electrical substation.
Section 805. Accessory Uses. Accessory uses and buildings permitted in the "R" District are buildings and uses customarily incident to any permitted use in the District, subject to the provisions of Section 1106 of this Ordinance.

Section 806. Parking Regulations. All parking within the "R" District shall be regulated in conformity with the provisions of Article Twelve of this Ordinance.

Section 807. Sign Regulations. Signage permitted in the "R" District shall be regulated in conformity with the provisions of Article Thirteen of this Ordinance.

Section 808. Area, Yard & Height Regulations. The maximum height and minimum lot requirements within the "R" District shall be as follows:

(A) General Requirements:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Specifics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>1 Acre, for &quot;Special Permitted Uses&quot;, reducing to 20,000 square feet for &quot;Permissive Uses&quot;, except when larger lot is required by &quot;Conditional Use&quot; Permit.</td>
</tr>
<tr>
<td>Lot Width</td>
<td>125'</td>
</tr>
<tr>
<td>Front Yard</td>
<td>30', except 70' on section line road.</td>
</tr>
<tr>
<td>Side Yard</td>
<td>20'</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>20'</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>35'</td>
</tr>
</tbody>
</table>

(B). Front yard required on each street of double frontage lots.

(C). Buildings with side yard setbacks less than required herein may have additions erected in line with existing building, provided that said additions will be erected no closer to lot line than existing building.
ARTICLE 9: ADDITIONAL REGULATIONS FOR OVERLAY DISTRICTS

Section 901. Purpose. The purpose of this Article Nine is to establish certain “overlay districts”, intended to maintain the rural, natural and scenic qualities of Lincoln County by preserving farmland and significant open spaces or environmentally-sensitive areas while allowing landowners a reasonable opportunity to develop certain holdings. Towards this end, the creation of three (3) or more lots for residential use, whether or not constituting a subdivision, or construction of three (3) or more dwelling units within a five-year period from or on a property or set of contiguous properties in common ownership as the effective date of this Ordinance (also sometimes referred to in this Ordinance as a “lot or record” whether one or more), shall be allowed only on Special Development Permit by the Planning Commission, in accordance with the criteria set forth below.

Section 902. Establishment of the "Farmland Open Space Protection District". The "Farmland/Open Space Protection District" is herein established as an overlay district, and said overlay district shall be described on a map, entitled "Farmland/Open Space Protection District", a copy of which is on file with the County Auditor and the Planning Office. The overlay district shall include farmland of state or local significance, a determination made based upon a combination of factors, including soils type, historic use of the land in question, size of the parcels used for farming or agricultural purposes, and character of the surrounding area. Significant "Open Spaces" may also be included in the overlay district. Those lands, parcels or lots of farmland or open spaces included within the overlay district need not be contiguous or continuous parcels.

Section 903. Establishment of the "Resource Protection District"; Use Regulations. The "Resource Protection District" is hereby established as an overlay district, and said overlay district shall be described on a map, entitled "Resource Protection District", a copy of which is on file with the County Auditor and the Planning Office. This overlay district may include (a) the 100-year floodplain as established on the FIRM map, or (b) areas which, because of soil or other limitations, are deemed unsuitable for permanent construction or development. All areas within the "Resource Protection District" are limited to those uses which are agricultural uses, with no permanent structures (other than fences) or buildings to be located thereon. All other uses in the "Resource Protection District" are hereby prohibited.

Section 904. Use Regulations. Within the "Farmland/Open Space Protection District" (see Section 902), the requirements of the underlying zoning districts shall apply, unless the following provisions are deemed more stringent than the underlying requirements:

(A). Permitted Uses:

(1). Agriculture, including farm dwellings, and any accessory uses or structures appurtenant thereto, including home occupations in conformity with Section 1107; and

(2). Creation of one or two lots for residential use, whether a subdivision or not, or construction of one or two dwelling units (other than farm dwellings) within a five-year period from or on a property or set of contiguous properties in common ownership as of the effective date of this Ordinance.

(B). Special Development Permit Uses: whether a subdivision or not, or construction of three (3) or more dwelling units (other than farm dwellings), within a five (5) year period from or on any lot of record.

(C). Prohibited Uses. All other uses are hereby prohibited.
Section 905. Special Development Permit Required. Within the "Farmland/Open Space Protection District", the creation of three (3) or more lots for residential use, whether a subdivision or not, or construction of three (3) or more dwelling units (other than farm dwellings), within a five-year period from or on any lot of record, shall be allowed only on Special Development Permit by the Planning Commission, provided a Special Development Permit shall not be required for any development of a parcel which is within both this overlay district and the "P" District. Such Special Development Permits shall be acted upon in accordance with the following criteria:

(A). Data Requirements: Applicants for Special Development Permit shall file with the Planning Director eight (8) copies of the following documents:
   (1). A development plan conforming to the requirements for a preliminary subdivision plan under the Lincoln County Subdivision Ordinance, which plans shall also indicate the manner in which the applicant shall comply with the requirements of Section 1104 of this Ordinance.
   (2). A drainage plan, as may be required under the Lincoln County Subdivision Ordinance.
   (3). A site plan, as required under "Site Plan Review", Article Ten of this Ordinance.

(B). Criteria: Applications for Special Development Permits for residential construction in "Farmland/Open Space Protection District" shall meet all of the following criteria:
   (1). The development plan shall demonstrate that, where applicable, the proposed use meets all of the requirements of the Lincoln County Subdivision Ordinance.
   (2). The minimum area of land for Special Development Permit shall be ten (10) acres. The total number of dwelling units shall be determined at the rate of one (1) unit per every two (2) acres of buildable land, after excluding from this computation all wetlands and floodplain.
   (3). All residual land, which shall remain as "open space", may be used only for recreational, conservation or agricultural purposes, shall be owned jointly or in common by the owners of the lots described within the Special Development Permit.
   (4). If appropriate, the residual land shall be mowed, plowed or otherwise tilled at least once annually. Special Development Permit applicants shall provide covenants to prospective purchasers, or a conservation easement in favor of the County, describing the specific land management practices to be followed, and the party or parties responsible for undertaking such management practices. Special management practices may be employed for woodlands or native prairies or grasslands.
   (5). Further subdivision of residual land, or its use for other than non-commercial recreation, conservation or agriculture, shall be prohibited. Structures and buildings accessory to non-commercial recreation, conservation, or agriculture may be erected on residual land, subject to "Site Plan Review", Article Ten of this Ordinance. These restrictions shall be recorded in a conservation easement.
   (6). Where applicable, a homeowner's association shall be established for the purpose of permanently maintaining all residual open space and recreational facilities. Agreements pertaining thereto, and providing for continuing maintenance, shall be submitted to the Planning Commission prior to the issuance of any Special Development Permit.

(C). Design Guidelines: The proposed development shall meet the following applicable design guidelines:
   (1). Dwelling units shall be grouped so that, on average, they consume no more than one
(1) Acre of land per dwelling, including roads, so that at least 50% of the parcel may remain open.

(2). Lots shall be laid out, to the greatest extent feasible, to achieve the following objectives (listed below in order of priority, as it is recognized that some may conflict with others on any given site):
   (a) on the most suitable soils for on-site wastewater systems, in accord with Section 1104 of this Ordinance;
   (b) on the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural use;
   (c) within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);
   (d) in locations least likely to block or interrupt scenic vistas, as seen from public roadway(s);
   (e) in locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities; and other criteria, as listed in Site Plan Review, Article Ten of this Ordinance;
   (f) Any lot facing onto a previously-existing public road shall have frontage of not less than one hundred fifty (150) feet.

(3). Lots not served by a public or municipal central sewer system, shall contain not less than 30,000 square feet, and shall have road frontage of not less than fifty (50) feet where such frontage is on a private road created by the subdivision or other plat involved.

(4). Distance between dwellings shall be not less than sixty (60) feet.

(5). Buffer zones of at least one hundred (100) feet in width shall be required between residential and agricultural uses, and shall be thickly planted with fast-growing native shrubs and trees to create an effective barrier separating yards from fields or pastures.

(D). Procedural Requirements for Special Development Permits:
   (1). The Planning Commission is hereby directed to deliver one (1) copy of the application for Special Development Permit to boards, commissions, or committees, including any township board, having an interest in the subject matter of the Special Development Permit, or any jurisdiction pertaining to the land covered thereby.
   (2). Special Development Permits shall be issued only following a public hearing held within sixty (60) days after the application has been filed. Notice of such public hearing shall be given in accordance with the requirements for a Conditional Use Permit, Section 1504 of this Ordinance, and the hearing on Special Development Permit Application may be held in conjunction with a Conditional Use Permit Application and/or a Site Plan Review Application. The Planning Commission shall act within thirty (30) days following public hearing. Failure to act within such time, following public hearing, shall be deemed to be a grant of the Special Development Permit Application in the manner as applied for and sought.
ARTICLE 10: REGULATIONS FOR
SITE PLAN REVIEW

Section 1001. Purpose. This Article is enacted under authority of SDCL 11-2-1, et seq., to protect the health, safety, convenience and general welfare of the inhabitants and landowners of Lincoln County. The provisions of this Article Ten shall be deemed to be effective from, on and after September 1, 1995, and the requirements of this Article shall thereafter regulate proposals for the development, improvement or other work concerning structures and sites in a manner as stated, and where necessary, shall require modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

The balancing of landowner's rights to use their land, with the corresponding rights of abutting and neighboring landowners to live and enjoy their premises without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, storm water runoff, etc.);

The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;

The adequacy of waste disposal methods, including on-site wastewater systems, and protection from pollution of surface waters or ground-water; and

The protection of historic and natural environmental features on the site under review and in adjacent areas.

Section 1002. Projects Requiring Site Plan Review. No Zoning or Building Permit for the construction, exterior alteration, relocation, movement, occupancy, or change in use of any building shall be given and no existing use shall be established or expanded in floor area except in conformity with a site plan reviewed and approved by the Planning Commission ("Site Plan Review"). Site Plan Review shall also be required for the resumption of any use discontinued for more than two (2) years, or for the expansion of any existing use. "Expansion" shall include a floor space of twenty-five percent (25%) or more within any ten (10) year period, or the introduction of new materials or processes not previously associated with the existing use. Required approval includes proposals for commercial, industrial, multiple dwelling residential structure or developments, municipal, institutional, utility, fraternal or recreational purposes and, if the building is an existing structure being moved to a new location from within or without the County, any such single-family or two-family dwelling.

Section 1003. Exemptions from Site Plan Review. Site Plan Review shall not be required for the following:

the construction or enlargement of any single-family or two-family dwelling, or accessory building (other than any such dwelling or building moved to a new location);

the construction or alteration of any building used exclusively for agricultural purposes;
construction or alteration of any building providing for not more than four hundred (400) square feet total area after construction or alteration;

home occupations, as provided for in Section 1107;

any development, project or work being undertaken pursuant to approved development plans in the "P" District.

Section 1004. Procedure.

(A). An applicant for Site Plan Review under this Article shall file with the Planning Director two (2) copies of the "Site Plan Review Application", containing the site plan documents, as required, together with the fees as required in Section 1907. The Planning Director shall acknowledge receipt of the site plan documents by endorsement and date of receipt.

(B). The Planning Director may informally review the Application with the Planning Commission, without notice and hearing, and if as a result of such informal review and if requested by the Planning Commission, the Planning Director may direct applicant to retain, at applicant’s sole expense, a registered professional engineer, architect, landscape architect, or other professional consultant or advisor, to consult with and advise the Planning Commission on any or all aspects of the Site Plan Review Application. The review process may be continued during the period of such consultation.

(C). If the Site Plan Review Application is complete, the Planning Director shall transmit a copy thereof to such other County or local boards, officials or agencies as may be deemed necessary for review and comment. Failure to comment in writing to the Planning Director within fifteen (15) days shall be construed as non-opposition to the project, development or work described in the Site Plan Review Application. Any written comments thereon shall concern:

- the adequacy of the data and procedures used by the applicant to determine the impacts of the proposed development, project or work;
- the effects of the projected impacts of the proposed development, project or work;
- the recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development, project or work.

The Planning Director shall promptly notify the applicant in writing of all such comments, including the written comments of the Planning Director.

(D). Applicant may accept such comments in writing and thereby modify the Site Plan Review Application in accordance with all of the written comments so submitted, in which event further public hearing on such application shall not be required, but a written determination or decision by the Planning Commission ("final action") shall be provided in accord with subsection (F). If Applicant fails to respond or otherwise notify the Planning Director, the Site Plan Review Application shall be deemed withdrawn or denied at this stage.

(E). If Applicant elects to proceed with the Application by a hearing before the Planning Commission, Applicant shall promptly notify the Planning Director in writing, and notice of hearing shall be given in the same manner as for Conditional Use Permit applications in Section 1504 of this Ordinance. A Site Plan Review Application may be heard by the
Planning Commission at the same time as a Conditional Use Permit Application and/or Special Development Permit Application.

(F). For Site Plan review Applications not requiring a Special Development Permit, and not requiring a Conditional Use Permit, the Planning Commission shall deliver its final action thereon (in writing) to the applicant, the Planning Director, and the Building Inspector (if any) within thirty (30) days after determining the application is complete, or if a hearing has been held, then within thirty (30) days after the hearing thereon in accordance with subsections (E) and (G).

(G). The Planning Commission's final action on the Application shall consist of:

- Approval of the Application upon a determination that the proposal, as submitted, or as commented upon in accord with subsection (C) with acceptance of such comments by applicant in writing, will constitute a suitable development, project or work and is in compliance with the standards set forth in this Article;

- Disapproval of the Application based upon a determination that the proposed development, project or work does not meet the standards for review set forth in this Article; or

- Approval of the Application, subject to such further conditions, modifications, or restrictions as required by the Planning Commission which will ensure that the development, project or work will meet the standards for review set forth in this Article, which approval shall be contingent upon the applicant's acceptance of such further conditions, modifications or restrictions.

Section 1005. Standards for Review. The Planning Commission shall review the Application (without hearing or upon hearing, as provided for in Section 1004) and all supporting documents, comments, reports, and other material provided to it by any interested person, taking into consideration the reasonable fulfillment of the objectives listed below. Detailed design guidelines and performance standards may be adopted in writing by the Planning Commission, as may be required to fulfill its duties under this Article:

(A). Legal: Conformance with the laws of the State of South Dakota, regulations promulgated by the administrative or independent agencies of the State of South Dakota, Lincoln County ordinances, and all other applicable rules and regulations of federal, state or local agencies, including other commissions of Lincoln County, if any.

(B). Traffic: Convenience and safety of both vehicular (including bicycles and similar forms of transportation) and pedestrian movement within the site and in relationship to adjoining ways and properties.

(C). Parking: Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishments therein, adequate parking, adequate lighting, and internal traffic control (forms of transportation) and pedestrian movement within the site and in relationship to adjoining ways and properties.

(D). County Services, Infrastructure: The reasonable demands to be placed on the County's services and infrastructure, and whether provision has been made to expand or budget for such services or improvements in infrastructure, including township roads and bridges.
Pollution Control: Adequacy of methods of sewage or wastewater disposal or treatment, other refuse disposal, and the protection from pollution of surface waters and groundwater. This includes minimizing soil erosion both during and following construction.

Drainage Control: Adequacy of methods of storm water run off control and general drainage plans for the project, development or work.

Nuisances: Protection of abutting or adjoining properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, odors, glare, storm water drainage, etc.

Existing Vegetation & Cover: Minimizing the area over which existing vegetation or other cover is to be removed or disturbed. When tree removal is required, special attention shall be given to planting and location of replacement trees.

Amenities: The applicant's efforts to integrate the proposed development, project or work into the existing landscape through design features such as vegetative buffers, roadside plantings and the retention of open space and agricultural lands.

County Character: The building setbacks, area and location of parking, architectural compatibility, signage and landscaping of the development, project or work, and how these features harmonize with the surrounding man-made and natural landscape.

Enforcement: The Planning Commission (or its agent or designates) may require the posting of a bond or other similar performance guaranty to ensure compliance with the Site Plan Review Application, as approved. The Planning Director or Planning Commission may suspend any license, permit or other authority to undertake the development, project or work when same is not performed as required in accord with the Site Plan Review. Any Zoning Permit or Building Permit, issued as a consequence of approval of the Site Plan Review Application, shall lapse within one (1) year if substantial use thereof has not commenced, except for good cause, such as weather conditions beyond applicant’s control. The time required to pursue and await a judicial determination pursuant to any state law or statute shall be included within the one (1) year time limit.

Section 1006. Site Plan Review Application-Submission Requirements: The Application shall include the following data, details and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. All requirements must be met in each plan, with explanatory material for any omissions. Site Plans shall be prepared by a registered professional engineer, architect or landscape architect at a scale of 1”=20’, on standard 24” x 36” sheets, with continuation on 8.5” x 11 ” sheets as necessary for written information or explanation. The following shall be included:

(A). Name of project, with boundaries, locus maps, showing location, date, north arrow and scale.

(B). Name and address of the owner of record, developer, and seal of preparing engineer, architect or landscape architect.

(C). Names and addresses of all owners of record of abutting parcels and those with three hundred (300) feet of a property line.
(D). All existing lot lines, easements and rights-of-way, including area in acres, square feet, abutting land uses, and location and use of structures within three hundred (300) feet of the site.

(E). The location and use of all existing and proposed buildings and structures within the development, project or work, including all dimensions of height, floor area, and exterior entrances, with all anticipated future additions and alterations.

(F). The location of all present and proposed public and private roads or other ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls and fences. Location, type and screening details for all waste/refuse containers shall also be shown.

(G). The location, height, intensity and bulb type of all external lighting fixtures, including direction of illumination and methods to eliminate or reduce glare to adjoining properties.

(H). The location, height, size, materials and design of all proposed signage.

(I). The location of all present and proposed utility systems, including sewage, septic or other on-site wastewater systems, water supply, telephone, cable or satellite television and electrical systems, storm drainage system, including existing and proposed drain lines, culverts, dead walls, end walls, hydrants, manholes, drainage swales, detention ponds, etc. The Planning Commission may also require soil logs, percolation tests, and storm water run-off calculations for large or environmentally-sensitive developments.

(J). Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the watertable, and flooding of other properties, as applicable.

(K). Existing and proposed topography at two (2) foot contour interval, referring to the nearest U.S. Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100 year flood-plain, the area will be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal of filling is required, and give its approximate volume in cubic yards.

(L). A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.

(M). Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be shown on the plan.

(N). Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site. The Planning Commission may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- the projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
• the projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;

• the impact of the projected traffic upon existing, abutting public and private roads and other ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall be given.

(O). For new construction or alteration to any existing building, a table containing the following information must be included:

• area of building to be used for a particular use such as retail operation, office, Storage, etc.

• maximum number of employees;

• maximum seating capacity, where applicable; and

• number of parking spaces existing and required for the intended use.

(P). Elevation plans at a scale of .25” = 1’ for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.

Section 1007. Additional Requirements for Undeveloped, Platted Parcels. In addition to the requirements of Section 1006, any proposed development, project or work involving one or more lots or parcels within an area of a subdivision platted prior to the effective date of this Ordinance, the Site Plan Review Application shall include a private road maintenance agreement for all private roadways identified within the development, project or work, and as shown upon the site plan documents, which agreement shall provide for a mechanism of funding and performing improvements and maintenance upon the private roads by owners or other persons interested in the development, project or work. The agreement upon approval of the Planning Commission shall be recorded prior to the issuance of any Zoning or Building Permit.

Section 1008. Appeal. The Planning Commission's action on the Site Plan Review Application shall be final, provided, applicant or any interested party may appeal the action taken to the Board of County Commissioners, as in the case of a Conditional Use Permit, by the process outlined in Section 1506 of this Ordinance. An appeal must be filed within 5 working days of decision.

ORDINANCE REVISION effective 1998 07 05
ARTICLE 11: ADDITIONAL REGULATIONS FOR BUILDINGS OR USES WITHIN THE DISTRICTS

Section 1101. General Scope. The provisions of the sections within Article Eleven shall be interpreted as additional regulations for buildings or uses established within the various zoning districts within the county, and such regulations shall be applied whenever the provisions of Article Eleven, or any section within, are referenced by any other regulatory provision of this Ordinance.

Section 1102. Fences. Fence or fencing regulations shall be as follows:

(A). Fences up to four (4) feet in height may be located on any part of the lot except that such a fence may not be more than 30 percent solid if located within 30 feet of a street intersection, measuring along the property line.

(B). Except as otherwise provided in (C), below, fences of up to six (6) feet in height may be located on those parts of a lot that are as far back or farther back from the street than the main building.

(C). Fences up to six (6) feet in height may be located on the side-street-side front yard where:

(1). The side-street-side front yard abuts an arterial street shown on the major street plan or other major road plan;

(2). The side-street-side front yard is not adjacent to a side yard; and

(3). The fence is located no closer to the front yard than the rear wall of the main building.

Section 1103. Wind Energy Conversion Systems. The regulations regarding Wind Energy Conversion Systems ("WECS") shall be as follows:

(A). Limited Use. No WECS installed in accordance with the requirements of this Section 1103 shall be used to generate power as a commercial enterprise, as defined by the South Dakota Public Utilities Commission.

(B). Setback Requirements. The minimum distance between the property line, overhead utility lines, or another wind turbine, and any tower support base of a WECS shall be equal to the proposed tower height (plus the radius of the rotor for an horizontal access machine). Contiguous property owners and planned developments may construct a WECS for use-in-common. If property held by more than one owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be approved by the Planning Commission.

(C). Tower Access. Climbing access to the WECS tower shall be limited either by means of a fence six (6) feet high around the tower base with a locking portal, or by limiting tower climbing apparatus so direct access is no lower than 12 feet from the ground.

(D). Electromagnetic Interference. If a WECS is planned for installation in any location along or within the major access of an existing microwave communications link, the person desiring to install the WECS shall provide a letter or other writing from the communications facility owner or operator stating no objection to the installation of the WECS.

(E). Air Space. A WECS shall be located or installed in compliance with the guidelines of the Federal Aviation Administration Regulations with regard to Airport Approach zones and clearance around VOR stations.

(F). Interconnect. If interconnected to an electric utility distribution system, the WECS shall meet the interconnect requirements of the utility.

The regulations regarding the on-site wastewater system standards shall be as follows:

(A). Intent. The regulations in this Section incorporate the law and regulations adopted by the State of South Dakota, and its agency, South Dakota Department of Environment and Natural Resources, for purposes of governing the installation, use and operation requirements applicable to "on-site wastewater systems" within the County and its districts. The intent is to protect the ground waters and surface waters of the County, and downstream users, from pollution or contamination.

(B). All buildings and uses within the County, or any district established under this Ordinance, which will generate any wastewater, shall be used or conducted only in conjunction with (i) a central sewer system, or (ii) either a "small on-site wastewater system" or "individual on-site wastewater system", installed, used and operated in conformity with the requirements of applicable state law and regulations of the South Dakota Department of Environment and Natural Resources (revised through August 8, 1994), incorporated herein by this reference.

(C). All buildings and uses generating wastewaters shall be served by an on-site wastewater system installed, used and operated in compliance with SDCL Chapter 34A-2, and ARSD 74:03:01:37, et seq.

(D). No on-site wastewater systems required under this Section shall be installed within the County except by an installer certified to perform such work by the South Dakota Department of Environment and Natural Resources, in accordance with ARSD 74:03:01.01, et seq. (Revised through August 8, 1994).

(E). In addition to requirements of state law or regulation, it is an express requirement of this Ordinance that the installer of any on-site wastewater system within the County shall certify to the Planning Director as to his or her state certification to perform such work, and upon completion of any such work, shall promptly certify to the Planning Director the following particulars:

(1). A statement of the size and capacity of any such on-site wastewater system, with a description of its design and intended function;

(2). A statement of the legal description where installed, and the legal description of, and the number of, the premises or buildings which will use the on-site wastewater system;

(3). A certification that the on-site wastewater system was installed in conformity with applicable state law and regulations, and the requirements of this Ordinance.

(F) Wastewater System Certification, Certification shall be required prior to the installation or modification of any individual wastewater treatment system. The term modification shall include any repair, which requires the relocation or replacement of any drainfield or septic tank. The applicant shall:

1. Engage a professional engineer licensed to practice in the State of South Dakota and capable in the field of on-site wastewater disposal. Provide the engineer the following information: Name, address, phone number, contractor, general location of the property, legal description, number of bedrooms, garbage disposal, water softener, and any additional information requested by the engineer. For a commercial facility, the applicant shall provide the following information to the engineer: Name, address, phone number, contractor, general location of the property, legal description, type of facility, maximum number of
employees, maximum capacity, number of hand washing sinks, toilets, urinals, showers and baths, washing machines, cafeterias, kitchens, service bays and any additional information as requested by the engineer.

2. The applicant shall hire a state certified installer to install the system.

3. The engineer and the installer, property owner and or the builder shall do an on-site evaluation to determine the best location for the septic tank and the drain field.

4. Soil percolation tests in the proposed drain field area shall be done under the supervision of either the engineer, a licensed geotechnical engineer, or a state certified installer approved by the engineer. The engineer may require a soil profile. After the engineer has evaluated the percolation test data and/or soil profile, the engineer shall design the septic system. A copy of the plans and specifications, which shall be duly signed and sealed by the engineer, shall be filed with the contractor and the planning and zoning office prior to beginning construction of the system. The installer shall install the system per the engineer’s design and specifications.

5. Plans and specifications for all installations which receive human excreta, other than a conventional individual on-site wastewater system, must be submitted to the Department of Environmental and Natural Resources for review and approval prior to construction.

6. When the installation of the system is complete, the installer shall contact the engineer no less than twenty four hours in advance for an on-site review of the system. The system shall not be covered or obscured until the review is completed.

7. To determine conformance to the plans and specifications, the engineer shall supervise or perform an on-site review of the system. A signed and sealed statement by the engineer with photographs stating that the system has been constructed in general conformance to the plans and specifications shall be provided to the planning and zoning office for inclusion to applicant’s building permit file.

8. Certificates of compliance for materials used in the installation or modification of any individual wastewater treatment system will be reviewed by the engineer and provided to the Planning and Zoning office for inclusion to applicants’ building permit file.

9. A building permit for a residential dwelling or a commercial facility requiring a wastewater treatment system shall not be issued until a professional engineer has provided the required review and statement.

(G). Subsequent Inspection. The Planning and Zoning Director shall require, at landowner expense, subsequent inspection/inspections at any time of any wastewater treatment system to assure adequate and functional capacity and operation in accordance with the design of the system. In the event such inspection reveals inadequate capacity, improper operation, or is inadequate in any way, a South Dakota registered professional engineer shall examine, at land owners expense, the results of the inspection data including pumping and video information, and recommend modifications sufficient to meet minimum requirements of South Dakota law. Failure to correct such deficiencies will
Section 1105. Rock, Sand & Gravel Extraction. The regulations regarding operations for rock, sand or gravel extraction shall be as follows:

(A). **Intent.** The regulations in this section shall apply to permanent or temporary operations for extraction and on-site processing of rock, sand and gravel, whenever such use requires a conditional use permit. Applicant shall comply with this Section, and requirements pertaining to a conditional use permit, in addition to any other general requirements in other sections of this Ordinance. Since rock, sand and gravel is not located throughout the County, the Planning Commission or Planning Director, as appropriate, will have the discretion of requiring more or less stringent conditions based on the location of the use and the surrounding uses impacted thereby. Conditions developed for temporary operations will recognize the limited time of operation while imposing the least inconvenience and nuisance to neighboring properties and uses. Permanent improvements may be waived for temporary operations.

(B). **Application.** The Application for conditional use, to conduct or engage in extraction or on-site processing operations under this Section 1105 shall be filed with the Planning Office on the conditional use form not less than 30 days prior to the regularly scheduled, monthly Planning Commission meeting, accompanied by the following:

1. Maps showing the area within which the extraction operations will be conducted, including areas to be disturbed, setbacks from property lines, location of all structures, equipment and access and haul roads;
2. Description of the surface land use and vegetation, including all pertinent physical characteristics;
3. Hydrologic study which shall include all available information from the State Geologic Survey and other information pertinent to the Application. If applicant believes such study is not warranted, documentation in support of the position shall be included.
4. Reclamation plan, which shall take into consideration the criteria listed in Subsection (F)(8), "Reclamation".
5. Applicant shall meet with the board of township supervisors of the affected township(s) to discuss repair and maintenance responsibilities on all township roads to be used as haul routes. A summary of the meeting(s), and a statement of the responsibilities shall be presented in writing with the application.

(C). **Fee.** If the conditional use permit is granted, the applicant or operator shall pay the County an annual fee of $20 per acre of land which is being disturbed by the extraction activity, and which has not been reclaimed. The fee shall be used to defray the direct and indirect costs associated with general administration and enforcement of this section. The fee shall be payable in arrears, on January 1 of each year, and deposited in the County's general fund. The fee payable following the grant of the conditional use permit shall be prorated based on the number of months in the year following date of approval.

(D). **Special Notice Requirements.** In addition to the notification requirements of Article Fifteen (Conditional Use Permits), the Planning Director shall notify all property owners of record within one mile of any area within the proposed conditional use, or the owners of the thirty (30) properties nearest to the area, whichever affects the least number of owners, of the time, date, place and purpose of the public hearing thereon. Such notice shall be mailed not less than 15 days prior to the hearing date.

(E). **Review of Conditional Use.** The conditional use permit shall be reviewed by the
Planning Commission after one year, and thereafter for the life of the operations at one, two or three year intervals, at the discretion of the Planning Commission. Review shall consider the applicant's past performance in meeting the stipulations of the conditional use permit, and the effectiveness of the stipulations in protecting the public interest. Notice of the review meeting shall be governed by subsection (D), above.

(F). Development and Operational Criteria. The following criteria shall be considered in developing conditions for applications for rock, sand and gravel extractions and/or on-site processing. More stringent requirements may be imposed by the Planning Commission when circumstances warrant, and applicant may present data and arguments to relax any requirement based on the specific characteristics of the site.

1. Buffer Area and Socio-economic Impact Study:
   a. A rock, sand or gravel operation shall be a minimum distance of 1,000 feet from existing residence, measured from the boundary of the conditional use area, except in those instances where the applicant submits a written waiver from the affected owner or occupant of such residence.
   b. If the Planning Commission determines that an operation may impact other land uses and landowners beyond the above-described buffer area, an independent impact study shall be prepared at applicant's expense which identifies the impact, if any, on the following factors and the mitigation measures to be employed:
      1. population and employment
      2. tax base and property valuations
      3. housing and schools
      4. emergency and other governmental services
      5. public facilities
      6. health effects
      7. roads and bridges
      8. land use
      9. applicant's history at other operational sites
   The Planning Commission may eliminate any factors from the study, or require additional factors, based on the apparent characteristics of the specific site.

2. Hours of Operation:
   a. Hours of operation shall be limited as follows: Monday thru Friday, 7:00 A.M. to 6:00 P.M., Saturday, 8:00 A.M. to 12:00 noon. Operations shall not be conducted on state legal holidays. Activities such as office or maintenance operations which do not produce off-site noise perception are not restricted by hours.
   b. Blasting work shall be scheduled on weekdays at 12:00 noon.

3. Visual Considerations:
   a. Earth berms and vegetation are methods which the operator shall employ to minimize visual impacts and reduce the effects of noise and dust.
   b. Need for placement of berms shall depend on the orientation and position of the site with respect to residences and roadways. Berms shall be constructed in such a way as to restrict the public's view of the property. Consideration shall be given to placing berms as close to the public point of view as practical. Generally, such berms shall be six feet in height and seeded immediately after construction to retard erosion and shall be maintained to avoid spreading of noxious weeds.
   c. Operator shall work with the Conservation District and Planning Director to
establish a planting program, with consideration given to one or more of the following varieties: evergreen, Russian olive, ash, caragana, lilac, buffalo berry, and maple. The operator's planting program shall be reduced to writing, approved by, and filed with the Planning Director.

(4). Noise. Noise level produced from rock, sand and gravel operations shall not exceed an average of 55 decibels recorded over a 10 minute period measured at the nearest existing residence to the boundary of the conditional use area. Off-site activities which contribute to background noise levels shall be taken into consideration when monitoring an operation.

(5). Dust
(a). The Planning Director shall direct that dust monitoring take place at the applicant's expense at least weekly during the first six weeks of production within the conditional use area. Thereafter, monitoring shall occur on a monthly basis during the production season, or more frequently as circumstances warrant. Two dust monitors shall be used, one upwind and the other downwind of the conditional use area, based on the seasonal prevailing winds at the site. Total suspended particulates measured by the downwind monitor shall not be more than 10 micrograms per cubic meter of air greater than the measurement recorded by the upwind monitor, measured during a 24 hour period.
(b). Dust shall be controlled on-site by application of water or other dust control methods so that no visible dust is emitted beyond the boundaries of the conditional use area, including all dust resulting from all production related operations and materials stockpiled on-site. Extreme weather conditions shall be taken into consideration when enforcing this requirement. Visible dust is defined as dust observable by the naked eye looking perpendicular to the wind along an imaginary vertical plane at the property line. Dust control methods will normally be required on the process plant as well as the on-site haul roads.
(c). All off-site gravel roads designated as haul roads to reach a hard-surfaced road shall have approved dust control agents periodically applied to the road surface. The Planning Director shall inspect the roads during the season to determine the applicant's compliance with dust control measures on haul roads.

(6). Haul Roads:
(a). To minimize the negative impact of truck traffic on area residents, the County shall encourage extraction operations to locate on or near hard-surfaced roads. Consideration shall be given to the number of residents located along gravel roads intended for use as haul roads. The potential impact on County highways to be used as haul roads or routes shall also be considered in review of the conditional use application.
(b). When township roads are designated as haul roads, operator or applicant shall enter into an agreement with the township board, filed with the Planning Director, specifying the responsibility for repair and maintenance work made necessary by the special burden arising from hauling and truck traffic. The Planning Director shall investigate any complaints concerning lack of repair or maintenance of township roads, and if operator or applicant has agreed to perform that work, the Planning Director shall report such matters to the Planning Commission for action.
(7). **Operator Surety:**

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

(b). A minimum surety of $5,000 shall be required when the operation is 10 acres or less. A surety of $500 per acre shall be required on operations larger than 10 acres, to a maximum of $20,000. In addition to the surety for the site, a surety shall be required in the amount of $5,000 per mile of township road designated as haul roads or routes.

(8). **Reclamation:**

(a). The type and extent of reclamation shall be based on the material extracted, and the intended post-extraction or operational land use, but in all cases, the procedures for reclamation shall result in rehabilitation of all affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create the least amount of unsightliness and most appropriate future use of the area reclaimed.

(b). Applicant shall provide maps, including cross sections, showing the existing natural topography and anticipated topographic conditions upon completion of reclamation.

(c). Grading shall achieve a contour that is most beneficial to the proposed future land use. All berms shall be removed where sand and gravel operations were conducted. In most cases involving quarry operations, the berms shall remain in place unless their removal would serve a more useful purpose.

(d). Placement of spoil materials and topsoil shall be specified in an approved reclamation plan, and a seeding and revegetation plan shall be developed for the affected area in consultation with the Lincoln Conservation District.

(e). All required reclamation activities shall be completed and a compliance inspection shall be performed by the Planning Director prior to release of any surety. Further, the township(s) having jurisdiction over any haul roads or routes shall certify in writing to the Planning Director that any required repair or maintenance of township roads has been satisfactorily completed by the applicant or operator prior to release of any surety.

**Section 1106. Accessory Buildings and Uses.** The regulations regarding accessory buildings and uses shall be as follows:

(A). **Limited Use.** Accessory buildings or uses are those customarily incident to any of the permitted uses in the district. In the "R" District, accessory buildings or accessory uses established for single family or other permissible dwelling uses shall be limited to:

1. A noncommercial greenhouse that does not exceed in floor area 25 per cent of the ground floor area of the main building;

2. A private residential garage used only for the storage of noncommercial vehicles and related items;

3. Tennis court, swimming pool, garden house, ornamental gates, barbecue oven,
fireplace and similar uses customarily accessory in nature to residential uses.

(B). **Time of Construction.** No accessory buildings shall be constructed on a lot until the construction of the main building shall have commenced and no accessory buildings shall be used unless the main building is also being used for the lawful purpose intended. These prohibitions shall not apply to agriculture accessory buildings subject to Section 402 (A) or (B) on parcels of at least 80 acres. Accessory buildings may not be used for dwelling purposes. **ORDINANCE REVISION effective 1998 07 05**

**Section 1107. Home Occupations.** The regulations regarding home occupations shall be as follows:

(A). **The home occupation,** if within the "R" District, must be conducted within a dwelling, or if within any other district, within the dwelling and/or an accessory building.

(B). **If conducted within a dwelling,** the home occupation must be clearly incidental and secondary to the principal use of the dwelling for dwelling purposes.

(C). **Only immediate members of the family residing on the premises may be employed in the home occupation.**

(D). **The entrance to the space devoted to such home occupation must be from within the building,** if conducted within a dwelling (see Subsection A, above).

(E). **If conducted wholly within a dwelling,** there can be no evidence other than the nameplate referred to in (F), below, to indicate from the exterior that it is used in part for any purpose other than that of a dwelling.

(F). **No home occupation conducted within a dwelling shall use a sign other than a nameplate on the building,** non-illuminated and not exceeding four square feet in area. If conducted within an accessory building, the sign shall be non-illuminated and not exceeding eight square feet in area.

(G). No such home occupation conducted within a dwelling shall require substantial internal or external alterations to the building, or involve construction details not customarily found in a dwelling.

(H). No such home occupation shall involve the sale of merchandise, other than that substantially assembled, prepared, manufactured or finished on the premises.

(I). The home occupation does not rely on frequent or repetitive visits from clients or customers.

(J). The home occupation does not cause odor, dust, glare, noise, heat or vibration is discernible from the property line, and which would have a negative effect on adjacent properties.

**Section 1108. Manufactured Homes / Modular Homes.** The regulations regarding Manufactured Homes or Modular Homes shall be as follows:

(A). **A park** intended for the placement of manufactured homes or modular homes on rented lots, without publicly-dedicated roads, shall meet the following minimum standards:

1. A prepared plan shall show the layout of the park, including lot lines, road system and spacing diagram for all structures. Upon approval of conditional use permit for the park, the plan shall be filed in the Office of Planning and Zoning and govern all future development thereon.

2. Each lot shall have a minimum size required for the zoning district in which the park is located. However, a smaller lot size may be approved as part of the conditional use.

3. No dwelling or structure, addition or appurtenance thereto shall be located less than the minimum setback required by the district in which the park is located. The setback requirements may be changed as part of the approval of the conditional use.
(4). Each lot shall (i) abut or face a clear unoccupied space, roadway, or street having a width of not less than 34 feet, if parking is permitted on both sides, not less than 27 feet where parking is restricted to one side only, or 24 feet where parking is prohibited, or (ii) be connected to such roadway or street by a private driveway not less than 12 feet in width, serving no more than four (4) lots. All roadways, streets or driveways within the park shall be hard-surfaced with bituminous asphalt or concrete.

(5). The park shall be a minimum of 10 acres in size.

(B). A subdivision for manufactured homes or modular homes shall be required to meet the regulations for a subdivision (as established in the Lincoln County subdivision ordinance) and the density, yard, and area requirements for the zoning district in which located. The subdivision shall be a minimum of 10 acres in size.

(C). Notwithstanding any other provision of this Ordinance, a Manufactured Home or Modular Home may be considered for a Conditional Use as provided for in the applicable district regulations only if the unit or structure shall comply with the following requirements:

1. The structure shall have been constructed on or after July 15, 1976, or shall have been renovated to comply with the industry standards in effect on such date, in accordance with such proofs as the Planning Commission shall find satisfactory;
2. The exterior dimensions of the structure, exclusive of overhangs, shall be 22 feet in width or greater; ORDINANCE REVISION effective 1998 07 05
3. The structure shall be supported by a foundation system consisting of walls along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 42 inches below final grade.
4. The roofing and siding material shall be consistent with material used in site-built homes;
5. The roof pitch shall be a 3/12 ratio or greater;
6. The structure shall comply with the Uniform Building Code applicable to the structure at the time of construction.

(D). Manufactured Homes which are nonconforming uses may be replaced with any structure upon application for and approval of a conditional use. The compatibility of the replacement structure with surrounding uses and dwellings shall be considered in the conditional use request.

(E). A Manufactured Home or Modular Home may be located temporarily on land owned by the occupant during the construction of single-family dwelling, not exceeding one year.

Section 1109. Additional Yard Regulations.

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

(B). Location of Accessory Buildings. Accessory buildings located in the required rear yard may be no closer than three (3) feet to the side or rear lot lines. The total area of all accessory buildings may not exceed more than ten (10) per cent of the rear yard.

(C). Adjustment to Front Yard Requirements. Where, on the effective date of this Ordinance, forty (40) per cent or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner:
1). Where the building furthermost from the street provides a front yard not more than ten (10) feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.

2). Where the rule provided in 1), above, is not the case and a lot is within one hundred (100) feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.

3). Where the rules in 1) or 2), above, are not applicable, and the lot is within one hundred (100) feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.

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

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

1). Eaves may project into a front or rear yard thirty-six (36) inches, exclusive of gutters;

2). Eaves may project into a side yard twenty-four (24) inches, exclusive of gutters;

3). Ordinary projection of sills, belt courses, cornices, vertical solar screen, and ornamental features which may project twelve (12) inches.

4). Air conditioners, not to exceed five (5) ton unit or parts thereof, may project into a required side yard, provided that such projections shall be distant at least three (3) feet from the adjacent lot line and shall not extend more than three (3) feet from the building. Such air conditioners may project into a required front yard, but shall not extend more than three (3) feet from the building, and such air conditioner may extend into one side of a corner lot.

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

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

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

Section 1110. Additional Height Regulations.

(A). Standard Exceptions: The height regulations established in this Ordinance shall not be applied to flag poles, domestic television antennas, church spires or chimneys.

(B). Mechanical Appurtenances: All necessary mechanical appurtenances placed on the roof of a building, such as air conditioning or heating units, elevator penthouses, and satellite receiving dishes, are exempt from the height regulations of this Ordinance subject to the following limitations: (1) no such appurtenance shall exceed the maximum height permitted in the district by more than 12’, and (2) all said appurtenances must be set back a minimum of 12’ from any face of a building which is adjacent to a street. Broadcast towers, telecommunications towers, antenna support structures, and wireless communications
facilities shall not be exempt from the height regulations of this Ordinance, and shall be set back a minimum of 12' from any face of a building which is adjacent to a street.
Section 1111.  Livestock Confinement Facility and Feedlot Siting and Other Requirements.

(A).   General Requirements: This section applies to any concentrated animal feeding operation (CAFO) constructed or used after the effective date of this section. Any facility shall be sufficiently separated from other land uses so as not to unreasonably interfere with or burden the enjoyment of other neighboring lands, consistent with the policy established under this Ordinance. ORDINANCE REVISION  effective 03 13 02

(B).   Concentrated Animal Feeding Operation Permit Requirements: Concentrated animal feeding operations are hereby classified as Class A concentrated animal feeding operations, which consist of any concentrated animal feeding operations containing 2,000 or more animal units as defined in these regulations, Class B concentrated animal feeding operations which consist of concentrated animal feeding operations between 1,000 and 1,999 animal units as defined in these regulations, Class C concentrated animal feeding operations which consist of concentrated animal feeding operations between 500 and 999 animal units as defined in these regulations, and Class D concentrated animal feeding operations which consist of concentrated animal feeding operations between 200 and 499 animal units as defined in these regulations. Any person who owns, operates, or proposes to own or operate a Class A, Class B, Class C, or Class D concentrated animal feeding operation as defined in these regulations, shall be required to apply for a conditional use permit pursuant to these regulations whenever any of the following occurs: a new concentrated animal feeding operation is proposed where one does not exist, when an expansion is proposed beyond what a current permit allows, when a signed complaint has been received or made by the County Planning Director or the South Dakota Department of Environment and Natural Resources and after inspection reveals that the concentrated animal feeding operation is in violation of County, Federal or State regulations, when a change in operation occurs as defined within these regulations, or when an existing CAFO is to be restocked after being idle for five (5) or more years.
(C). *Animal Unit Ratio for Concentrated Animal Feeding Operations:*

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

** The above referenced number of animals (for Classes A, B, C and D) is based on those animal unit ratios incorporated into the SD Department of Environment and Natural Resources (S.D. DENR) General Permit for feedlot operations.
(D). **Waste Management Plan:** Any facility for which a conditional use permit (“CUP”) is required shall have a waste management plan (“WMP”). Waste application provisions can be found under (E) *Waste Application.* The WMP shall be prepared with the assistance of an engineer, licensed in the state of South Dakota, or other qualified professional (at the applicant’s expense), be in writing, be approved as an adjunct to the CUP, and be updated or amended periodically to conform to facility operating conditions or requirements. In addition, an engineer that is licensed in the state of South Dakota shall approve and sign off on all building and waste storage facility plans associated with the concentrated animal feeding operation.

Class A and B concentrated animal feeding operations, as defined by these regulations, shall be required to have the WMP reviewed and approved by the South Dakota Department of Environment and Natural Resources. Waste management plans for Class A, B, C and D concentrated animal feeding operations may be reviewed periodically by the Planning Commission if deemed necessary. The following minimum requirements (unless varied from or waived by the CUP) shall apply:

1. Pest and odor control shall be maintained using conscientious methods, both as to the facility and the waste disposal site.

2. Unless otherwise required by state or federal law, all waste shall be collected in self-contained, enclosed pits, and transport equipment conveying wastes to the disposal site shall be fully enclosed and structurally sound to prevent leakage or spillage.

3. The legal description of all tillable agricultural lands where waste disposal is to be conducted. All waste produced from swine units must be knifed or injected. Waste produced by any other animal site may be either surface/irrigation applied or incorporated/injected.

4. Written agreements with all owners of waste disposal sites (other than those of the facility owner) for the use of such land for waste disposal, with provision no such land shall be withdrawn from use without written notice to the Planning Commission. Contracts shall be for a minimum three-year time period.
(5). Waste disposal at all sites shall meet the following separation distance requirements:

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>SURFACE OR IRRIGATION APPLIED</th>
<th>INCORPORATED OR INJECTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lakes, Rivers, and Streams Classified as Fisheries</td>
<td>300 feet (lakes)</td>
<td>100 feet (lake)</td>
</tr>
<tr>
<td></td>
<td>100 feet (river &amp; stream)</td>
<td>100 feet (river &amp; stream)</td>
</tr>
<tr>
<td>Stream &amp; Lakes classified as Drinking Water supplies</td>
<td>1,000 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>Public Roads</td>
<td>25 feet (surface) from right-of-way</td>
<td>10 feet from right-of-way</td>
</tr>
<tr>
<td></td>
<td>300 feet (irrigation)</td>
<td></td>
</tr>
<tr>
<td>Dwellings</td>
<td>300 feet (surface)</td>
<td>300 feet</td>
</tr>
<tr>
<td></td>
<td>1,000 feet (irrigation)</td>
<td></td>
</tr>
<tr>
<td>Public Wells</td>
<td>1,000 feet</td>
<td>1,000 feet</td>
</tr>
<tr>
<td>Private Shallow Wells</td>
<td>250 feet</td>
<td>250 feet</td>
</tr>
<tr>
<td>A Residence other than the Operator Municipality or rural subdivision</td>
<td>1,000 feet</td>
<td>600 feet</td>
</tr>
<tr>
<td></td>
<td>1,000 feet</td>
<td>1,000 feet</td>
</tr>
<tr>
<td>Natural or Manmade Drainage Ditch or Canal</td>
<td>200 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>
(E). Waste Application: In order to regulate waste application practices, landowners receiving and utilizing manure generated from a concentrated animal feeding operation not permitted by Lincoln County shall be required to obtain a conditional use permit for land application of said manure within the Agricultural – Public Use District. The waste management plan shall be the same as for a permitted site.

(F). Minimum Separation Distances: The facility shall be sited not closer than 70 feet from the lot line and any public right of way, and not closer than those distances indicated in the “Setback Chart”. These distances are minimums, and may be increased under the terms of any CUP based on considerations and characteristics of the neighborhood, including but not limited to adjoining or nearby uses within the same or different districts and prevailing wind direction. Setbacks shall be measured from the waste storage facility to the structure/use as identified on the “Setback Chart”.

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

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

- **Animal waste incorporated**: animal waste applied to the land surface and mechanically mixed into the soil within twenty-four (24) hours.

- **Animal waste injected**: animal waste injected or tilled into the soil at the time of application.

- **Animal waste surface applied**: animal waste applied to the land surface without benefit of incorporation or injection. This shall not include the use of animal waste in irrigation water.

- **Change in Operation**: “Change in operation” means a cumulative increase of more than 300 animal units, or change in animal species, after the effective date of these regulations, which are confined at an unpermitted concentrated animal feeding operation.

- **Manure**: fecal material and urine from livestock as well as animal-housing waste water, bedding material, rainwater or snow melt that comes in contact with said material.

### SETBACK CHART

<table>
<thead>
<tr>
<th>Classification</th>
<th>CLASS A</th>
<th>CLASS B</th>
<th>CLASS C</th>
<th>CLASS D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings other than owner of the facility</td>
<td>.75 mile</td>
<td>.5 mile</td>
<td>.25 mile</td>
<td>.25 mile</td>
</tr>
<tr>
<td>Municipalities – Incorporated and Unincorporated</td>
<td>2 miles</td>
<td>1.25 miles</td>
<td>1 mile</td>
<td>1 mile</td>
</tr>
<tr>
<td>Swine only – dwellings other than owner of facility</td>
<td>2 miles</td>
<td>1.25 miles</td>
<td>.75 mile</td>
<td>.5 mile</td>
</tr>
<tr>
<td>Existing Swine Feeding Operation over 200 AU - only related to new swine feeding operations</td>
<td>2 miles</td>
<td>1.25 miles</td>
<td>.75 mile</td>
<td>.5 mile</td>
</tr>
<tr>
<td>Churches, Schools, Businesses, Cemeteries and Public Use Areas</td>
<td>1.5 miles</td>
<td>1 mile</td>
<td>1 mile</td>
<td>.5 mile</td>
</tr>
<tr>
<td>Public Water Supplies</td>
<td>1.5 mile</td>
<td>1 mile</td>
<td>1 mile</td>
<td>.5 mile</td>
</tr>
<tr>
<td>Private Shallow Wells</td>
<td>.25 mile</td>
<td>.25 mile</td>
<td>.25 mile</td>
<td>.25 mile</td>
</tr>
<tr>
<td>Lake, Rivers and Streams classified as Fisheries</td>
<td>1 mile</td>
<td>1 mile</td>
<td>.5 mile</td>
<td>.5 mile</td>
</tr>
<tr>
<td>Federal, State, County and Township ROW</td>
<td>70 feet</td>
<td>70 feet</td>
<td>70 feet</td>
<td>70 feet</td>
</tr>
<tr>
<td>Designated 100 Year Flood District</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Designated Aquifer Protection Dist.</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>
(H) Information Required for the Consideration of Class A, B, C and D Concentrated Animal Feeding Operation Conditional Use Permits:

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

1. The owners’, managers’, management company’s or similar entities’ name, address and telephone number.
2. Legal description of the site.
3. The number and type of animals to be housed by the proposed concentrated animal feeding operation.
4. A fly and odor control plan.
5. Methods to be utilized for the disposal of dead animals.
6. Information on ability to meet designated setback requirements, including maps showing measured distances.
7. Plans and specifications of the proposed site and a nutrient management plan.
8. Information on the types of soils at the site, and whether there are any shallow aquifers, designated wellhead protection areas, and/or 100-year floodplain designations at or within one half mile of the proposed site.
9. A map illustrating all land to be utilized for manure application.
10. Site plan of all existing and proposed buildings and structures.
11. Provide farm service agency wetland map.
12. Testing boring location and test boring results. The boring must be located below the location of the proposed waste containment facility and extend to a minimum of twenty-five (25) feet below the ground surface.
13. Information on whether the applicant has ever violated any of the conditions or provisions of any Lincoln County conditional use permit, Lincoln County conditional use permit for concentrated animal feeding operations, or similar permit in any other county in the State of South Dakota, or any state in the United States.
14. The Lincoln County Planning Commission or the Planning Director may request information reasonably related to a concentrated animal feeding operation not contained in these regulations.
Enforcement of the Provisions of this Section:

1. Any violation of any of the provisions of these regulations, or a violation of any of the conditions placed on any conditional use permit for a concentrated animal feeding operation, may be cause to revoke or suspend the permit, or other appropriate legal action, including, but not limited to, an injunction or other legal process. Action suspending or revoking a conditional use permit for violation of these regulations, or for violating the terms and conditions of the conditional use permit may be taken by the Planning Director or the Planning Commission.

2. The Planning Director, or the Planning Commission, may issue a written notice to any person or entity that is in violation of the Lincoln County Zoning Regulations and/or a Lincoln County conditional use permit for concentrated animal feeding operations, or any condition placed on the permit, that the person or entity is in violation of the regulations or the permit and/or conditions placed on the permit.

   If the Planning Director or the Planning Commission determines that a written notice shall be given to any person or entity in violation of the regulations or the permit, it should state the nature of the violation, the regulation or condition of the permit being violated, and state a proposed course of corrective action to the person or entity, along with a timetable for taking the corrective action.

   The Planning Director, or the Planning Commission, may proceed directly to attempt to suspend or revoke the permit, or to take appropriate legal action, including, but not limited to, asking for an injunction from a circuit court, or to take other appropriate legal process, when, in the judgment and discretion of the Planning Director or the Planning Commission, it is in the best interest of Lincoln County to take such action to protect Lincoln County and its citizens.

   The Planning Director or the Planning Commission may issue an order to any person or entity holding a conditional use permit for a concentrated animal feeding operation, requiring the person or entity to show cause before the Planning Commission, why that person or entity’s permit should not be revoked, suspended or modified. Any order issued pursuant to these regulations shall state the nature of the alleged violation, the approximate date or dates of the alleged violation, and shall cite the regulation or condition of the permit violated. After the person or entity has been served with the order, a hearing shall be held not later than thirty (30) days after the order was entered. At such hearing the person or entity shall be given an opportunity to show that the person or entity is not in violation of any regulation or condition of a permit, including presenting testimony and the opportunity to cross-examine any witnesses that testify. Any testimony taken at such hearing shall be under oath. The burden of proof shall be on the person or entity that holds the permit to show that they have not violated a regulation or condition of a permit.

   At the conclusion of the hearing, the Planning Commission shall vote on the issue of whether or not the person or entity has violated a regulation or a condition of the person or entity’s permit. A majority vote shall prevail. The Planning Commission shall then
issue a decision, which may suspend, revoke or modify the permit or the terms and conditions of the permit.

Any person aggrieved by a decision of the Planning Commission may appeal such decision according to the provisions for appeals in the Lincoln County Zoning Regulations.

ORDINANCE REVISION effective 03 19 03
Section 1112. Telecommunications towers, antenna support structures and wireless communications facilities

A. Intent and Purpose

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

The purpose of this section is to provide predictable and balanced standards for the siting and screening of tower facilities on both public and private property within the jurisdiction of Lincoln County. These standards will protect the health, safety and general welfare of persons in the area(s) surrounding such tower facilities from possible adverse aesthetics related to the placement, construction or modification of such tower facilities.

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

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

(1.) To regulate the location of telecommunication towers, antenna support structures and wireless communication facilities.

(2.) To protect residential areas and land uses from potential adverse impact of telecommunications towers, antenna support structures and wireless communication facilities.

(3.) To minimize adverse visual impact of tower sites through design, siting, landscaping and innovate camouflaging techniques.
(4.) To promote shared use and co-location of sites.

(5.) To insure telecommunications towers, antenna support structures and wireless communication facilities are compatible with surrounding land uses.

(6.) To facilitate the provision of services to residents and businesses in an orderly fashion.

(7.) To promote the location of telecommunications towers, antenna support structures and wireless communication facilities in non-residential areas.

(8.) To avoid potential damage to property caused by telecommunications towers, antenna support structures and wireless communication facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound. Specifically, the Telecommunication Act of 1996 affirms the local government's right to control the siting, construction and modification of cellular and other wireless telecommunication facilities. The permitting process of this article will not discriminate among providers of functionally equivalent services and will not prohibit the provisions of personal wireless services.

B. Applicability

It shall be unlawful for any person, firm, or corporation to erect, construct in place, or place any tower facility without first receiving a permit(s) from the Lincoln County Planning and Zoning Office. Nor may any person, firm, or corporation alter, modify, transform, add to or change in any way an existing tower facility without first receiving a permit(s) from the Lincoln County Planning and Zoning Office.

C. Co-Location Requirements for New Tower Facilities

New tower facilities shall be designed and constructed to permit the future co-location of other commercial wireless telecommunications services, according to the following criteria:

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

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

D. General Standards

*Conditional Use Permit:* All proposed tower facilities, as defined in this ordinance, shall obtain a conditional use permit through the County. New tower facilities shall be allowed as conditional uses under the following zoning districts: Agriculture-Public Use, Commercial Service and Industrial.

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

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

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

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

*Screening:* Trees and large shrubs, native to the area, are to be planted twenty (20) feet apart in two (2) staggered rows which are ten (10) feet apart. The two staggered rows are to be located adjacent to the fencing. These trees and large shrubs shall be a minimum height of 6 feet by the end of the second growing season and must be maintained for the life of the tower facility.

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

All towers shall be painted in a color best determined by the County to blend into the particular environment unless alternating red and white colors are required by federal agencies.

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

1. Lincoln County Planning and Zoning Office may contract with an independent technical expert to review technical materials submitted by the applicant, and/or to determine if additional information is necessary. The tower facility applicant shall pay the cost of such review and/or independent analysis.

2. Name and address of the tower facility owner, record landowner of parcel and any duly appointed agents of the parties.

3. A visual study depicting where within a one (1) mile radius any portion of the proposed tower facility will be visible.

4. Site plan(s) drawn to a scale of one (1) inch equals twenty (20) feet or less, specifying the location of the tower facility, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting, landscaped areas and all adjacent land uses within two hundred forty (240) feet of the base.

5. A landscape plan designed to screen the base of the tower facility and fencing, shall be submitted. The plan shall show the location, size, quantity, and type of screening materials and shall be drawn to a scale of one (1) inch equals twenty (20) feet or less, including "before" and "after." Simulations indicating size, spacing and type of plantings, and indicating steps to be taken to provide screening as required by the general standards of this section shall be included as part of the landscape plan. The landscape plan(s) shall also indicate the size, location and species of all existing vegetation and whether each of those indicated are proposed for removal (indicate proposed mitigation), relocation (indicate from and to), or preservation.

6. Elevation drawings of "before" and "after" simulating and specifying ground levels, the location and height of antenna(s), support structures, equipment buildings and/or other accessory uses, fences and signs of the tower facility.

7. Map showing the search radius for the antenna location and the proposed broadcast coverage obtained by the tower facility, including a narrative describing a search radius of not less than one (1) mile for the requested site, clearly explaining why the site was selected, identifying and locating landing and takeoff areas of aircraft within the search radius, locating all existing tower facilities, and identifying all other structures that may be potential co-location sites.

8. Description of the tower facility design. (e.g. monopole)

9. An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to obtain permission for installation at a co-location facility.
10. Written, technical evidence from an engineer(s) that the proposed tower or communication facility cannot be co-located to other tower sites.

11. Written, technical evidence that an engineer registered in the State of South Dakota has provided the design for this specific tower facility and site ensuring the proper standards for design.

F. Other Requirements

The County may require additional information from the applicant and impose additional standards, regulations or requirements as deemed necessary to protect the public health, safety and welfare. If the Planning Commission considers the information provided inadequate or if the applicant fails to supply required information, the Planning Commission may deny the application on this basis. Other requirements include, but are not limited to, the following:

- A letter that requires the tower facility owner and successors to allow the shared use of the tower facility if an additional user(s) agrees in writing to meet reasonable industry terms and conditions for shared use.

- A copy of the FAA determination or a signed statement that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.

- A copy of the FCC's license or a signed statement from the proposed operator of the tower facility attesting to the fact that the tower facility complies with current FCC regulations, including compliance with the regulations of the FCC with regard to maximum radio frequency and electromagnetic frequency emissions, or a statement from the applicant that no such compliance is necessary, and the reasons therefore.

- Copy of a certificate of insurance for liability and workers compensation insurance that requires notification to Lincoln County Planning and Zoning Office prior to cancellation will be furnished.

- Documentation demonstrating that the tower facility has been designed to conform to applicable state structural building standards and accepted electrical engineering methods and practices as specified in applicable provisions of the National Electrical Code and a sworn statement that following completion of construction the tower facility will be inspected at the applicant's expense by a qualified engineer licensed by the State of South Dakota.

- The applicant shall submit proof, in the form of a signed affidavit, demonstrating a good faith effort to lease or purchase space on an adjacent existing tower facility. The affidavit shall state why space is not available, such as:
1. The planned tower facility would exceed the structural capacity of the tower facility and the structural capacity cannot reasonably be increased;

2. The planned tower facility would cause interference with the usability of other existing or planned equipment at the tower facility; and/or
3. An existing tower facility cannot accommodate the planned antenna at a height necessary to function reasonably.

G. Exemptions

Towers exempt from the permitting process include the following:
1. Residential use no more than 10' above average existing tree canopy or roof line.
2. Additions to existing towers which meet the standards of this section and do not increase the tower height.
3. Normal maintenance to existing tower facilities.

H. Annual Notification - Failure to Comply Deemed Abandonment

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

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

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

I. Abandonment

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

Removal includes the complete tower facility including related infrastructures, footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and restoration to pre-existing vegetative cover. Failure to do so shall be just cause for Lincoln County to seek legal avenues that will remove the tower facility and restore the site.
The County shall require financial assurances including bonds in an amount sufficient to cover costs of removal of towers, buildings, concrete footings, anchors, supporting equipment, and antennae. Said financial assurances shall be submitted with the conditional use permit application. An engineer's cost estimate is to assist the County in determining the amount of financial assurance necessary to cover removal costs of said towers, buildings, concrete footings, anchors, supporting equipment and antennae.

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

**J. Existing Tower Facilities**

Existing tower facilities may continue in use and perform routine maintenance for the purpose now used and may not alter, convert, modify, transform, vary, add to or change in any way the form without complying with Section 1112. Existing tower facilities shall be considered for the co-location of other antenna(s). The owner of an existing tower facility shall file an annual notification in writing to the Planning and Zoning Office as to the continuing operation of every tower facility constructed (see subsection H- Annual Notification). Failure to do so shall be determined to mean that the tower facility is no longer in use and considered abandoned.

**K. Maintenance**

All tower facilities shall be maintained in a safe and clean manner. The tower facility owner shall be responsible for maintaining a graffiti, debris and litter free site. The landscape plan shall be maintained for the life of the tower facility. Trimming the tops of trees on site shall be allowed, only to maintain the average height of the canopy used to establish tower facility height. All tower facilities shall be subject to periodic inspection to ensure continuing compliance with all conditions of the application submitted and approval requirements.

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

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

**L. Time Limit on Tower Facility Construction**

Construction of an approved tower facility must be completed within two years following the date of the approval. Landscaping must be installed within the first growing season immediately following construction.
M. Definitions

**Antenna**  Any structure or device used for the purpose of collecting or radiating electromagnetic waves including but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antenna such as whip-antenna.

**Antenna Support Structure**  Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples, and light poles.

**Broadcast**  To convey, generate, transmit or receive electromagnetic signals regardless of frequency, power level or communications use.

**Camouflage**  A covering or disguise of any kind to hide or conceal.

**Tower Facility(ies)**  Structures thirty-five feet (35’) or more in height and that may include a tower, antenna(s), equipment building(s), anchor points and other related equipment used by broadcast services and/or wireless telecommunications services.

**Tower Monopole**  A tower consisting of a single pole, constructed without any guy wires and ground anchors.

**Tower Height**  The height of the tower is the vertical distance from the point of contact with the ground to the highest point of the tower including all antenna or other attachments.

**Wireless Telecommunication**  Any ground or roof mounted structure of more than 35 feet in height above average ground level built for the purposes of supporting, elevating or attaching antenna(s) for broadcasting of cellular, personal communications, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services. For all sections of this ordinance, wireless telecommunication shall not be considered a public utility.

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ARTICLE 12: REGULATIONS FOR PARKING & LOADING WITHIN THE DISTRICTS

Section 1201. Location. All parking required by this Article shall be located in conformance with the following requirements:

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

Section 1202. Off-Street Parking Requirements. Off-street parking for specific uses shall be required as follows:

(A). Single family, two-family dwellings: One space for each dwelling unit.
(B). Multiple dwellings: One and one-half spaces for each dwelling unit of one bedroom or less. Two spaces for each dwelling unit of 2 bedrooms or more.
(C). Multiple dwellings for elderly and handicapped: .75 parking spaces for each dwelling unit.
(D). Rooming and boarding house: One space per two beds.
(E). Private club or lodge: One parking space for each 300 square feet of floor area.
(F). Church or temple: One parking space for each four seats in the main auditorium.
(G). School: (1) High School: One parking space for each three students, based on design capacity; (2) Junior High School: 25 spaces plus one parking space for each teacher and staff member; (3) Elementary School: 15 spaces plus one parking space for each teacher and staff member.
(H). Hospital: One and one-half parking spaces for each bed.
(I). Auditoriums, Theaters, other Places of Assembly: One parking space for each four seats.
(J). Community Center, Library, Museum or Similar Public, Semi-Public Building: ten parking spaces plus one additional space for each additional 300 square feet of floor area in excess of 2,000 square feet.
(K). Hotel, Motel: Ten parking spaces plus one space for each sleeping room or suite.
(L). Medical Office Building: Buildings in which 20 percent or more of the gross area is occupied by members of healing arts professions. One parking space for each 200 square feet of gross area used for medical purposes.
(M). Manufacturing, Industrial Establishments, Bottling Plant, Warehouse or Similar Use: Two parking spaces for each 3 employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection with the use.
(N). Restaurant, Bar, Cafe, Recreation or Amusement Establishment, Not Specified Herein: One parking space for each 100 square feet of floor area or one parking space per three fixed seats, whichever is greater.
(O). Personal Services: One parking space for each 200 square feet of floor area.
(P). Retail Stores, for Furniture, Appliance, Home Improvement Products: One parking space for each 600 square feet of floor area.
(Q). Other Retail Uses: One parking space for each 300 square feet of gross floor area.
(R). All nonresidential Buildings, except those specified above: One space for each 300 square feet of floor area.

Section 1203. Rules for Computing Parking Spaces. In computing the number of required off street parking spaces, the following rules shall be applied:
(A). Floor area shall mean the gross floor area of the specified use, excluding any floor area or portion thereof used for parking as herein defined.

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

Section 1204. Minimum Improvement and Maintenance Standards. Parking lots shall conform with the following improvement and maintenance standards:

(A). If the lot is not hard-surfaced with concrete or asphalt, a gravel surface shall be provided. The gravel surface shall be maintained to a thickness of at least four inches.

(B). Adequate provision shall be made for the disposal of storm waters from the parking lots and the owner shall insure that such waters do not flow onto adjoining property in a quantity or manner that would be detrimental thereto.

(C). A structurally sound abutment, including but not limited to, bumper blocks, continuous curb or retaining wall, shall be installed along all sides of the parking lot except when facing and abutting a building.

(D). An opaque fence, wall, berm, or landscaping of height and character necessary for adequate screening of the parking lot from adjacent property used for residential purposes shall be provided. Where there is a difference in elevation between the property which needs the screening and the property receiving the benefit thereof, the height of the screen barrier shall be measured on the high side.

(E). Entrances and exits to and from any parking lot shall be approved by the Planning Director. Proper directional signs shall be provided by the Applicant/owner.

Section 1205. Off-Street Loading Requirements.

(A). Off-Street loading spaces shall be provided for any building (when built or structurally altered) in accord with the following requirements:

(1). Office Buildings:
   (a) 5,000 to 25,000 s.f., GFA = One 12'x20' loading space
   (b) 25,001 to 50,000 s.f., GFA = One 14'x35' loading space
   (c) 50,001 to 200,000 s.f., GFA = Two 14'x35' loading spaces
   (d) Add one additional 14'x35' loading space for each 75,000 s.f. of gross floor area above 200,000 s.f.

(2). Retail or Service Establishment:
   (a) Less than 5,000 s.f., GFA = One 12'x20' loading space
   (b) 5,001 to 20,000 s.f., GFA = One 14'x35' loading space
   (c) 20,001 to 100,000 s.f., GFA = Two 14'x35' loading spaces
   (d) Add one additional 14'x35' loading space for each 75,000 s.f. of gross floor area above 100,000 s.f.

(3). Wholesale, Commercial Uses:
   (a) 2,000 to 20,000 s.f., GFA = One 14'x35' loading space
   (b) 20,001 to 100,000 s.f., GFA = Two 14'x35' loading spaces
   (c) Add one additional loading space for each 75,000 s.f. of gross floor area above 100,000 s.f.

(4). Manufacturing or Industrial Uses:
   (a) One 14'x35' space for each 10,000 square feet of gross floor area plus one 14'x35' space for each portion thereof in excess of 50,000 s.f.
(B). *Loading spaces* are to be provided on each lot in compliance with the following requirements:

1. The loading space shall be completely contained on the lot intended to serve;
2. Loading space shall be arranged on the lot in a manner so as to allow normal movement of traffic in and around such space;
3. No loading space shall extend into any public right-of-way.
ARTICLE 13: REGULATIONS FOR SIGNS WITHIN THE DISTRICTS

Section 1301. Intent. These regulations provide standards for the erection and maintenance of private signs. The principal feature of this section is the restriction on the total sign area permissible per site or installation. All private signs shall be erected and maintained in accordance with the standards of this Article. The general objectives of standards for signs are to achieve the following goals, and the following requirements shall apply in any event:

(A). Safety: To promote the safety of persons and property by providing that signs:
   (1). Do not create a hazard due to collapse, fire, collision, decay or abandonment;
   (2). Do not create traffic hazards by confusing or distracting motorists, or impairment of sightliness or impairment of sight to official traffic signs, signals or devices.

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

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

(D). All signs shall be maintained during use, and removed at the end of use. Any sign which is not maintained, or is deemed abandoned by the original user, shall be removed upon written notice to sign owner or user, and if not removed, may be removed upon an order of the Planning Commission. Any sign not maintained shall be deemed in violation of any conditional use associated with the sign, whether on-site or off-site.

Section 1302. On-Site Signs. The following regulations shall apply to all signs, and govern the sign area and height thereof, for on-site signs in the following districts, except as provided in Section 1305:

(A) "A" District:
   (1). Signs advertising the use of a particular breed, type, variety, hybrid, or brand of plant, chemical or tillage. No one sign shall exceed 16 square feet in area per face.
   (2). Uses which are governed by conditional use may have signs on the premises in accordance with the stipulations of the permit.
   (3). A sign identifying a home occupation, conducted in a dwelling, not to exceed 4 square feet.
   (4). A sign identifying a home occupation, conducted in an accessory building, not to exceed 8 square feet.
   (5). No hunting, no trespassing and similar warning or exclusion signs.

(B) "R" District.
   (1). A sign identifying a home occupation, conducted in a dwelling, not to exceed 4 square feet.

(C) "C" and "I" Districts
Section 1303. Regulations, Limitations of Permitted On-Site Signs.

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

(B). **Projecting signs:**

1. Projecting signs may project no more than five feet from the building face.
2. Projecting signs shall have a minimum clearance of ten feet above grade level about any yard or sidewalk and 16 feet above any road or drive.
3. Projecting signs may project no more than 5 feet above the top of a parapet or roof line including the framework or support.

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

(D). **Freestanding Signs.**

1. Freestanding signs shall be limited to one per street frontage except that businesses on frontages of 300 feet or more may erect two freestanding signs, provided, the total sign area for both signs may not exceed that allowed for the street frontage.
2. Freestanding signs shall be located only in the front or side yard, and shall not project over public property or rights-of-way.
3. Freestanding signs shall not be erected within the area of a corner of two intersecting streets or a street and a railroad. Area of a corner, in this case, shall be the triangular area formed by measuring 40 feet from the intersection along both roads and connecting these two points with a straight line. Exceptions: The foregoing restriction shall not apply when the sign and sign structure comply with the following: (a). The sign face is located 12 feet or more above grade level, and (b). the sign structure is of such a size and spacing so as to not obstruct the view of the intersection.

Section 1304. Special Situations. This section contains the sign regulations for the following special situations:

(A). **Shopping Centers.** A freestanding sign shall be allowed on each street frontage stating the name of the center and the major tenants, provided no other freestanding signs are erected. The sign area shall be determined independently from the sign area allowed under Section 1302. A sign area of one square foot for each lineal feet of street frontage or 200 square feet per frontage, whichever is smaller, shall be allowed. Height shall not exceed 40 feet.

(B). **Interstate Highway Interchange.** In the "C" and "I" Districts, businesses which are adjacent to both the interstate and the intersecting cross street may by conditional use erect one additional on-site freestanding sign not to exceed 200 square feet or 60 feet in height.

Section 1305. Exemptions. The following signs may be allowed in addition to the signs permitted in Section 1302 hereof, and are exempt insofar as requiring the issuance of a zoning permit, but signs must be in conformance with all other state and local laws:
Automobile Service Station. Gasoline dispensing stations may have, in addition to other signs allowed under this Article, one 12 square foot sign on each street frontage. Such signs shall be firmly attached to a structure and contain gasoline pricing information only.

Construction Signs. Building contractors, lending institutions and professional firms may post temporary signs on site under construction. The total sign area shall not exceed 100 square feet or 20 feet in height and shall be removed upon completion of the project.

Neighborhood Identification Signs. In any district, a masonry wall, landscaping and other similar material or feature may be combined to form a display for neighborhood or tract identification, provided that the legend of such signs or display shall consist only of the neighborhood or tract name.

Permanent Identification Signs. Churches, schools, day care centers, institutional and public uses in the "A", "C", and "R" districts may have a sign not exceeding 25 square feet in area per frontage.

Public Signs. Signs of a noncommercial nature and in the public interest, erected by or on the order of a public officer in the performance of his or her duties shall be permitted.

Integral Signs. Names of buildings, dates of erection, monumental citations, commemorable tablets, and the like of permanent-type construction and made an integral part of the building structure shall be permitted.

Private Traffic Directional Signs. Signs directing traffic movement into, out of or within the commercial premise, provided such signs shall not exceed an area of 4 square feet per sign face, and 4 feet in height.

Real Estate Signs. Temporary real estate or auction announcement signs shall be permitted.

Section 1306. Illumination. Regulations regarding the illumination of signs shall be as follows:

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

(B). Blinking, Flashing. Blinking, flashing, pulsating, or fluttering lights, or other illuminated devices which have a changing light pattern shall not be located closer than 300 feet from any residential use in any district. This restriction shall not apply to signs exclusively displaying date, time and temperature information.

Section 1307. Temporary, Portable Signs. Temporary and portable signs shall not exceed 32 square feet and may be displayed for 60 days per calendar year in the "C" and "I" Districts. The user of any such sign shall:

(A). Notify and obtain approval from the Planning Director prior to placement of any such sign;

(B). Notify the Planning Director upon removal or the sign; the Planning Director shall continue to deduct one day from the 60 days allowed per calendar year until notice of removal is received or a total of 60 days has elapsed.

(C). Place the sign in locations so that the provisions of this Article and the use is in compliance with all other applicable codes and ordinances. Temporary and portable signs in the "A" District, when used in conjunction with roadside stands or fireworks stands, shall be authorized as part of the conditional use granted to such uses.

Section 1308. Prohibited Signs. The following signs are prohibited:
(A). **Painted Wall Signs.** Painted wall signs shall be prohibited except that existing signs may remain provided said signs are maintained. Signs which are not maintained, as periodically required due to weathering and other deterioration, shall be removed or renovated within 60 days upon notice. Painted wall graphics shall be permitted, however, such graphics shall not contain any words or graphics advertising the business or products sold within.

(B). **Nuisance Signs.** Signs which imitate an official traffic sign or signal or which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign, or signal shall be removed upon notice.

(C). **Banners.** Banners may not be used except on a temporary basis for a maximum of 21 days during any calendar year.

**Section 1309. Off-Site Signs.** In addition to the restrictions, limitations, and prohibitions provided in Sections 1306 and 1307, off-site signs shall be subject to the following restrictions and limitations, it being the intention of this Section to prevent the uncontrolled use of off-site signs so as to promote the health, safety and general welfare of those persons using the public rights-of-way.

(A). "A" District: In these districts, off-site signs shall be limited to those which provide direction to a business or use and shall be constructed in accordance with the following:

1). Maximum sign area of 9 square feet;
2). Sign shall contain business name and directional information only;
3). No more than one sign face per direction of facing;
4). No sign shall be erected within a 500 foot radius of any other off-site sign intended to be read from the same right-of-way; the sign shall not be within a 300 foot radius of any other off-site sign intended to be read from a different right-of-way.
5). The sign shall not be illuminated or shall it use flashing or blinking lights;
6). A maximum height of 16 feet.

(B). "C" and "I" Districts: In these districts, the following shall apply:

1). Maximum sign area of 288 square feet;
2). No more than one sign face per direction of facing;
3). Maximum height of 30 feet, except when the provisions of Section 1302 (C)(3) may be applied.
4). No part of the sign face or structure shall be located in or overlap into the required side or rear yard setbacks or public right-of-way.
5). No sign shall be erected or located within 500 foot radius of any other off-site sign intended to be read from the same right-of-way, and no sign shall be erected or located within 300 foot radius of any other off-site sign intended to be read from a different right-of-way.
6). The light from any illuminated sign shall be governed by Section 1306.

**Section 1310. Conditional Uses for Off-Site Signs:**

(A). **Off-site signs** up to a maximum of 672 square feet and signs with more than one sign face per direction of facing may be constructed in the “C” and "I" Districts if a conditional use has been obtained.

(B). **A conditional use** shall be required for off-site signs within 500 feet of a park, school, church, or designated historical site.
Section 1311. Exceptions from Off-Site Sign Regulations: The following off-site signs shall be allowed notwithstanding any other provision of this Article:

(A). Directional signs for non-profit organizations, not to exceed 4 square feet per sign face.
(B). Political campaign signs, provided signs are removed within 5 days after the election.
(C). Directional signs, street name signs, or other signs which have been authorized and directed by any governmental agency or unit.
ARTICLE 14: REGULATIONS FOR NONCONFORMING/NONSTANDARD USES WITHIN THE DISTRICTS

Section 1401. Purpose and Intent. The purpose of this Article is to provide for regulation of nonconforming or nonstandard uses, buildings, and structures and to specify those circumstances under which same shall be permitted to continue.

Section 1402. Continuation of Use. Subject to the provisions of this Article, the lawful use of a premise, lawfully established and existing immediately prior to the effective date of this Ordinance may be continued although such use does not conform to the provisions hereof.

Section 1403. Use Becoming Nonconforming by Change in Law or Boundaries. Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions of this Ordinance, as then applied.

Section 1404. Change in Nonconforming Use. If no structural alterations or additions are made, a nonconforming use may be changed to another nonconforming use of the same or a more restrictive classification. For purposes of this Article, each of the following classifications of districts shall be considered "more restrictive" than those it precedes:

1. I Industrial District
2. C Commercial District
3. R Residential District

Section 1405. Extension and Enlargement. A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located except that a conditional use permit may be authorized after the following criteria are given specific consideration:

(A). Effect on surrounding property values.
(B). The density of land use zoning for the subject and adjacent properties.
(C). The degree of hardship to the applicant if permit is not granted.
(D). Demonstration of applicant's intent to use the entire premises for such use prior to the adoption, revision or amendment of this Ordinance, as pertinent.

Section 1406. Restoration after Damage. When the use of a building is nonconforming as defined by this Ordinance, and such building is damaged by fire, explosion act of God or the public enemy to the extent of more than 60% of its fair market value, it may not be restored except in conformity with the regulations of the district in which the building is located.

Section 1407. Discontinuance of Nonconforming Use. In the event a nonconforming use is discontinued for one year or more, any subsequent use shall be established in conformity with the regulations of the district in which located.

Section 1408. Effect on Present Use. Nothing in this Ordinance shall be interpreted as authorization for, or approval of, the continuance of any use of any premises in violation of zoning regulations in effect immediately prior to the effective date of this Ordinance.
**Section 1409. Continuation of Nonstandard Uses.** Nonstandard uses existing immediately prior to the effective date of this Ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed or structurally altered as follows:

(A). *Enlargements, extensions, conversions or structural alterations* may be made as required by law or ordinance.

(B). *Structural alteration* of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard or rear yard which is less than the minimum required yards for the district in which located.

(C). *Enlargement, extension, conversion of buildings or structures* may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking and density for the district in which they are located.
ARTICLE 15: REGULATIONS FOR CONDITIONAL USE PERMITS WITHIN THE DISTRICTS

Section 1501. Application to the County. Any person, firm, corporation or other entity desiring a Conditional Use in any zoning district shall make application for such Conditional Use by filing a written application with the Office of Planning and Zoning, requesting same and setting forth the following information:

(A). Legal description of the premises, lot or other land upon which such Conditional Use is requested.
(B). Name, address and telephone number of the property owner, and the applicant, if different.
(C). Zoning district classification under which the property is regulated at the time of such application.
(D). Any other information concerning the property, and the proposed Conditional Use, as may be requested by the Planning Director, or the Planning Commission.
(E). The application shall be accompanied by the required, non-refundable Conditional Use application fee (see Section 1907) to cover a portion of the administrative costs of considering the application.

Section 1502. Site Plan. Unless waived by the Planning Director, each application for a Conditional Use shall be accompanied by a site plan showing the following information:

(A). Legal description of the property.
(B). Name of the project and/or business.
(C). Scale and north arrow.
(D). All existing and proposed buildings and additions, and dimensions (including height and number of stories).
(E). Distance from all building lines to the property lines at the closest points.
(F). Dimensions of all property lines.
(G). Parking lot or spaces, designating each space, lot, dimensions, stalls and aisles.
(H). Screening, showing the height, location and type of material to be used.
(I). Name and location of all adjacent roads, waterways and other public places or uses.

Any Conditional Use, if approved, shall conform in all respects to the Site Plan as submitted or modified upon approval. Modifications shall be stipulated in writing, and shall become part of the site plan, if Conditional Use is approved.

Section 1503. Hearing by Planning Commission. Upon filing of an application for Conditional Use Permit, the Planning Director shall set a date for public hearing on the application, at which time the Planning Commission shall meet to consider the Conditional Use application. The hearing on the Conditional Use Permit application may be conducted at the same time and place as any hearing on a Site Plan Review Application (see Article Ten of this Ordinance), and/or Special Development Permit Application (see Article Nine of this Ordinance) for the same proposed use and identical parcel or lot.

Section 1504. Notice of Hearing. The applicant shall be responsible for posting one or more signs (provided by the Planning Director) on the property at least ten (10) days prior to the hearing date. The sign(s) shall be posted or erected in such a manner as to be clearly visible from the street, road or other public right-of-way from which entrance or access to the property can be gained. In the event
an application for conditional use pertains to a Concentrated Animal Feeding Operation, as defined in Article 3, Section 301, the Planning Director shall publish notice of said hearing at least once in all legal newspapers of Lincoln County at least (10) days prior to the hearing date.

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Section 1505. Action by Planning Commission. The Planning Commission shall decide whether to grant the Conditional Use, and if granted, with such conditions and safeguards as are appropriate. The application shall be denied when the Conditional Use is not in harmony with the purpose and intent of the regulations established under this Ordinance. The decision of the Planning Commission shall be final, unless an appeal is filed in accord with Section 1506. The Planning Commission may grant or deny such application upon motion duly made and seconded, with a recording of the votes in favor of or against such motion. A majority of the Planning Commission present (if a quorum exists) shall either approve or deny the application, or, upon motion, may defer the application to another time.

Section 1506. Appeal. The Planning Commission's decision on a Conditional Use application may be appealed to the Board of County Commissioners by the applicant or any person aggrieved by the decision, upon filing a written appeal with the Office of Planning and Zoning within five business days of the Planning Commission hearing at which the decision was entered. If appealed, the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review, with notice of the time and place of such review to be given in the same manner as provided for in Section 1504. The Board may vote to either affirm, uphold, reverse or amend the decision of the Planning Commission.

Section 1507. Amendments of Permit by Application. Any person, firm, corporation or entity to which a conditional use permit has been granted may make application to amend said conditional use permit. Such application for amendment shall proceed in the same manner as required for the original conditional use permit.

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Section 1508. Expiration. A Conditional Use permit for a dwelling of any manner shall expire two years from the date of approval if no work has commenced. All other Conditional Use permits shall expire one year from the date of approval if no work has commenced. The expiration date may be extended as part of the Conditional Use permit approval.

Section 1509. Preexisting Uses. An existing use eligible for a Conditional Use permit which was lawfully established on the effective date of this Ordinance shall be deemed to have received a Conditional Use permit as herein required and shall be provided with such permit by the County upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension or relocation of such existing use, an application in accordance with this Article shall be required.

Section 1510. Reapplication. No applicant requesting a Conditional Use permit whose application includes the same or substantially the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Planning Commission or Board of County Commissioners shall be again considered by the Planning Commission before the expiration date of six (6) months from the date of the final action on the application.

Section 1511. Subsequent Users. A conditional use permit is not transferable to any other subsequent owner, tenant, or user of the premises. Notwithstanding, the Planning Director shall have the authority to allow any such person to continue a conditional use permit, already approved in the name of another
applicant, if the continued use involves no change in the manner, volume or appearance of the use or the building or premises for which the use was initially established, and in connection therewith, the Planning Director may enter into supplemental written stipulations with the person seeking to continue the conditional use.

Section 1512. Review of Permit by Planning Commission
(A) Basis for Review. Noncompliance with any of the terms, conditions or requirements placed on a conditional use permit by Lincoln County is sufficient cause to subject such permit to review by the Lincoln County Planning Commission.

(B) Procedure. If the Planning Director is reasonably satisfied there exists any noncompliance with the terms, conditions or requirements of a conditional use permit, the Director shall give written notice of such noncompliance to the person, firm, corporation or entity to which the permit was granted. Additionally, the Director shall advise the Planning Commission of such noncompliance at its next regularly scheduled meeting. Upon such advisement, the Planning Commission shall set a time for review of the permit at a subsequent regularly scheduled meeting. Such review hearing will be open to the public.

(C) Notice of Review Hearing. At least ten (10) days prior to the hearing, the following shall occur:

1) the Director shall give written notice of the review hearing to the person or entity for whom the permit was authorized;
2) notice of the hearing shall be published at least once by the Director in all legal newspapers of the county;
3) the Planning Director shall be responsible for posting sign(s) on the property in such a manner so as to be clearly visible from the street, road or other public right-of-way from which entrance or access to the property is gained;

(D) Hearing. The person, firm, corporation or entity to which the conditional use permit has been granted has the initial burden of establishing compliance with all terms, conditions and requirements of the permit in question. In the event the Planning Commission determines by a preponderance of the evidence that such compliance has not been established, it may do any of the following:

1) revoke said permit;
2) amend said permit;
3) postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions and requirements of the permit in question;
4) require any other such action it deems appropriate and in accordance with the provisions of this Ordinance.

(E) Effect of Revocation. Any person, firm corporation or entity to which a conditional use permit has been granted and subsequently revoked by the Planning Commission may not apply for a conditional use permit pursuant to Section 1501 for a period of six (6) months.

(F) Appeal. Appeals from decisions made by the Planning Commission pursuant to this section shall commence and proceed in accordance with Section 1506. ORDINANCE REVISION Effective 2004 08 25

ARTICLE 16: REGULATIONS FOR CHANGES OF ZONING DISTRICTS OR OTHER
AMENDMENTS

Section 1601. Application for Zoning Change. Any person, firm, corporation or other entity having legal interest in any property within a district may apply to the Planning Office for a zoning change. As used in this Section, a "zoning change" may be (i) a change, revision or amendment of any district regulation established under this Ordinance, or (ii), in conformity with the procedures established under this Ordinance, a change in the zoning map is effected and whereby the zoning for such property is changed by assignment thereof to a different zoning district (whether the zoning change is given effect by resolution or ordinance). The Board of County Commissioners, from time to time, may also initiate any such zoning changes or amendments, and after a recommendation by the Planning Commission, with notice and hearing thereon, may amend, supplement, modify, change or otherwise affect the boundaries of any district or the regulations for any district.

Section 1602. Fees. Any application for zoning change shall be accompanied by the filing fee required under Section 1907.

Section 1603. Planning Commission Hearing. Upon filing of application, with payment of fees, for zoning change, the Planning Director shall set a date for public hearing at which time the Planning Commission shall consider the application, which date shall be a day and time when the Planning Commission is regularly scheduled to meet according to its custom.

Section 1604. Notice, Signs. The Planning Director shall cause publication of legal notice as provided for in SDCL § 11-2-29. Further, Applicant shall be responsible for posting one or more signs (provided by the Planning Director) on the property at least ten (10) days prior to the hearing date. The sign(s) shall be posted or erected in such a manner as to be clearly visible from the street, road or other public right-of-way from which entrance or access to the property is accomplished.

Section 1605. Planning Commission Recommendation. The Planning Commission shall consider the application for zoning change, and make a recommendation thereon to the Board of County Commissioners.

Section 1606. Board Hearing and Action. The Board of County Commissioners, upon receipt of the Planning Commission's recommendation, shall determine whether the application for zoning change, if approved or adopted, will require action by resolution or ordinance. If by ordinance, the Planning Director shall prepare a proposed Ordinance, which shall have its first reading at the time the Board of County Commissioners shall establish a hearing date thereon. Thereafter, the Board of County Commissioners shall cause to be published a legal notice as required by SDCL § 11-2-19. Applicant, if required by law, shall also serve notice of the zoning change by mail not less than 15 days prior to the public hearing, and Applicant shall be responsible for posting one or more signs (provided by the Planning Director) on the property at least ten (10) days prior to the hearing date. The sign(s) shall be posted or erected in such a manner as to be clearly visible from the street, road or other public right-of-way from which entrance or access to the property is accomplished. The Board of County Commissioners, upon motion, may either deny or adopt the zoning change, and if adopted, such change shall be published in conformity with law.

Section 1607. Reapplication. No application requesting a zoning change on any property, which property was previously included in any identical or substantially similar zoning change application which was denied by the Board of County Commissioners, shall be resubmitted to and considered by the Planning commission before the expiration date of six (6) months from the date of the final action by the
Board of County Commissioners on the previous application.
ARTICLE 17: REGULATIONS FOR BOARD OF ADJUSTMENT & VARIANCES

Section 1701. Establishment. The Planning Commission shall act as the Zoning Board of Adjustment (“ZBA”). The ZBA may, in appropriate cases and subject to conditions and requirements of law, grant variances and hear appeals to the terms of these regulations in harmony with the general purpose of this Ordinance, and in accord with the specific rules set forth in this Article.

Section 1702. Operational Procedure. The ZBA shall meet at the regularly scheduled meetings of the Planning Commission. All meetings of the ZBA shall be open to the public and all business coming before the ZBA shall be transacted at such meetings. The ZBA shall keep minutes of its proceedings, records of examinations and other official actions, all of which shall be filed in the Office of Planning and Zoning as a public record.

Section 1703. Appeals. The ZBA shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Planning Director in enforcement of these regulations.

Section 1704. Standards. The ZBA shall not vary the regulations unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:

(A). The particular physical surroundings, shape or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

(B). The conditions upon which the application for variance is based would not be applicable generally to other property within the same zoning district or other classification, or other property substantially similar in use.

(C). The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.

(D). The proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property; increase the congestion in the public streets; increase the danger of fire; endanger the public safety; or diminish or impair property values within the area.

(E). That because of circumstances or conditions, there is not possibility that the property can be developed in strict compliance with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(F). That the variance, if authorized, will represent the minimum variance that will afford reasonable relief and will represent the least modification desirable of the zoning regulations.

Section 1705. Application. Any person, firm, corporation or other entity desiring a variance or proposing to appeal a determination of the Planning Director shall make application for such request to the Office of Planning and Zoning. Such application shall be provided by the Office and be completed in full by the applicant.

Section 1706. Fees. Upon filing any application for variance or appeal, directed to the ZBA, the applicant shall pay to Lincoln County the appropriate fee as provided for in Section 1907 of this Ordinance, such fee to be used towards defraying the administrative costs of such application.
Section 1707. Hearing. The Office of Planning and Zoning shall set a date for hearing, at which time and place the ZBA shall consider the application for variance or appeal. Notice of hearing shall be posted on the property involved in the application not less than 10 days prior to the hearing date.

Section 1708. Decision. The ZBA may impose reasonable conditions on the grant of any variance or appeal, and the applicant, in accepting those conditions, shall be bound by them. A favorable vote by a majority of the members of the ZBA shall be required to approve any application.

Section 1709. Appeals from ZBA. Appeals may be taken to the Circuit Court by any person or persons aggrieved by any decision of the ZBA or any taxpayer, officer, department, board or bureau of Lincoln County, aggrieved by any decision of the ZBA, in the form and manner provided by law.

Section 1710. Limitations. Any decision or other order of the ZBA granting a variance or appeal shall cease to be effective and declared invalid by the ZBA, unless the subject matter thereof has been substantially completed and given effect within two (2) years of the date of such decision or order, and any conditions imposed by the ZBA have been satisfied. The Planning Director shall notify the applicant upon determination by the ZBA of any such determined invalidity.
ARTICLE 18: REGULATIONS FOR ZONING PERMITS

Section 1801. Zoning Permits Required. It shall be unlawful for any person, firm, corporation or other entity to erect, construct, change, enlarge, alter, repair, move, improve, remove, convert, demolish, use, occupy, or maintain any building, structure, or land use regulated by this Ordinance, or cause the same to be done, directly or indirectly, without first obtaining a separate Zoning Permit for each building, structure or land use change from the Office of Planning and Zoning.

Section 1802. Application. To obtain a Zoning Permit, applicant shall first file an application in writing on a form furnished by the Office of Planning and Zoning. Each application shall:

- fully identify and describe the work to be covered by the Zoning Permit sought, including a factual basis for applicant's position that Site Plan Review is unnecessary for the work entailed;

- describe the land on which the work is to be done, by legal description, street address and any other similar description which readily identifies and locates the proposed building, work or use;

- describe the proposed use or occupancy and work proposed; be accompanied by a Site Plan; be signed by the applicant, or authorized agent; and

- give such other data and information as may be required by the Planning Director.

The Planning Director shall have discretion to waive all or any of the foregoing requirements of any application for Zoning Permit when the development, project of work covered thereby has been fully contained within a Site Plan Review Application which has been reviewed and approved by the Planning Commission pursuant to Article Ten of this Ordinance.

Section 1803. Site Plan. Site Plans shall be drawn to scale upon substantial paper or other suitable media, of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the proposal shall conform to the provisions of this Ordinance and all relevant and applicable laws, ordinances, rules and regulations. The Planning Director may waive this Site Plan requirement upon finding the nature of the work or change in land use applied for is such that review of plans is not necessary to obtain compliance with the purpose and intent of this Ordinance.

Section 1804. Issuance. The application, plans and other data submitted by applicant shall be reviewed by the Planning Director. If the Planning Director determines the application establishes the matters therein sought will be established or undertaken in conformity with this Ordinance, the Zoning Permit may be issued. Prior thereto, such plans and other data may be reviewed by other departments or officials of the County, or townships therein, to verify compliance with any applicable laws or other requirements of ordinances under their jurisdiction.
ARTICLE 19: REGULATIONS FOR ADMINISTRATION, FEES AND GENERAL PROVISIONS OF THIS ORDINANCE

Section 1901. General Regulations. The following general regulations shall apply to all zoning districts:

(A). Except as otherwise provided, no building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any land or structure be used:
   1). Except for a purpose permitted in the district in which the structure or land is located;
   2). Except in conformance with the height and minimum lot requirements and the parking and sign regulations, and any other applicable requirements of the district in which the structure or land is located;
   3). Except in conformance with any federal, state or county or other local codes as may be applicable. Where these regulations and any other rules and regulations conflict or overlap, whichever imposes the more stringent restrictions shall be deemed to control and prevail;
   4). Except in conformance with all other procedural and review requirements of this Ordinance, including, if applicable, Site Plan Review requirements of Article Ten (effective on and after September 1, 1995).

(B). The density and yard requirements of these regulations are minimum regulations for each and every building existing at the effective date of this Ordinance, and for any building hereafter erected or structurally altered. No land required for yards or other open spaces about an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.

(C). Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on a lot except as otherwise provided and allowed under these regulations.

(D). Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.

Section 1902. Violations and Penalties. Except as may be otherwise specifically provided in this Ordinance, violations of this Ordinance shall be treated in the manner specified below:

(A). The owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which the violation has been committed or shall exist, or the agent, architect, building contractor, or other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed $200.00. Each and every day that such violation continues shall constitute a separate offense.

(B). In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Lincoln County, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or
use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land. Also, no zoning permit authorizing such building or structure shall be issued for a period of six months following notice of violation of these regulations.

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Section 1903. Warning and Disclaimer. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, however, greater floods can and will occur, and floor heights may be increased by man-made or natural causes. These regulations do not imply that land outside the flood zone or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of Lincoln County, or its officers or employees, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

Section 1904. Interpretation, Abrogation and Severability. In interpreting and applying the provisions of this Ordinance, and the regulations established thereby, such shall be deemed to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not the intent to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these regulations and any other regulations, easement, covenant or deed restrictions conflict or overlap, whichever imposes the more stringent requirements or restrictions shall prevail. All other regulations inconsistent with these regulations are hereby repealed to the extent of such inconsistency only. If any section, clause, provision or other portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of these regulations shall not be affected thereby, but shall remain in full force and effect.

Section 1905. Savings Clause. These regulations shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any regulations hereby repealed. These regulations shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations hereby repealed.

Section 1906. Purpose of Catch Heads. The catch heads appearing in connection with the section of these regulations are inserted simply for convenience to serve the purpose of an index. The introductory statements found at the beginning of each Article are to serve as general references only. The catch heads, introductory statements, and illustrative examples of zoning terms shall be wholly disregarded by any person, office, officer, court or other tribunal in construing the terms and provisions of these regulations.

Section 1907. Fees. Fees for permits, amendments, reviews, copies of ordinances, and other zoning-related applications and requests shall be established by resolution of the County Commission. The fees shall be paid at the time of filing an application with the Office of Planning and Zoning (or as otherwise provided). Such fees shall be payable to the County Treasurer and under no conditions shall any fee be refunded after publication of any required legal notice, or, if publication is not required, after the Planning Commission has considered the application. No action shall be taken upon any application unless all fees have been paid:

Section 1908. Administration and Enforcement.

(A).  Powers and Duties of Planning Director:

1). The Planning Director is hereby authorized and directed to enforce all provisions of this Ordinance and establish any other necessary, ancillary rules for its
administration.

The Planning Director, in pursuit of such duties, shall consult with and assist the Lincoln County State's Attorney, when and as necessary and in conjunction therewith, as an officer of and in the name of the county, seek judicial enforcement or writs of or pertaining to any civil or criminal remedy provided for under this Ordinance, or other applicable law.

2). In accordance with prescribed procedures and with the approval of the Board of County Commissioners, the Planning Director may appoint technical officers and inspectors and other employees authorized to assist in the enforcement of this Ordinance.

Section 1909. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, or whenever the Planning Director or any authorized representative has reasonable cause to believe that there exists in any building or upon any premises an ordinance violation, the Planning Director or an authorized representative may enter such building or premises at all reasonable times to inspect same or to perform any duty imposed upon the Planning Director by this Ordinance, provided that if such building is occupied, he or she shall first present proper credentials and request entry; and if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry request is refused, the Planning Director shall have recourse to every remedy provided by law to secure such entry. When the Planning Director or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant or other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein or thereupon by the Planning Director or an authorized representative for the purposes of inspection and examination pursuant to this Ordinance.

Section 1910. Stop Order. Whenever any work is being done contrary to the provisions of this Ordinance, the Planning Director may order the work stopped by notice in writing served upon any persons engaged in the doing of or causing the work to be done, and any such persons shall forthwith stop such work, and comply with such notice, until authorized by the Planning Director to proceed with the work.

Section 1911. Occupancy Violation. Whenever any building or structure regulated by this Ordinance is being used contrary to the provisions of this Ordinance, the Planning Director may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be undertaken or continued. Such persons shall discontinue the use within the time prescribed after receipt of such notice, and shall otherwise make the structure, or portion thereof, comply with the requirements of this Ordinance.

Section 1912. Effective Date. This Ordinance and its regulations shall be in full force and effect from and after its passage and publication according to law, or upon such later date as may be otherwise provided for within any Articles of this Ordinance.
ORDINANCE LC-0-1995-001

AN ORDINANCE ENACTING THE 1995 REVISED ZONING ORDINANCE FOR LINCOLN COUNTY, SOUTH DAKOTA, PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES, RESOLUTIONS, RULES AND REGULATIONS IN CONFLICT THEREWITH.

WHEREAS, the Board of County Commissioners adopted the Comprehensive Plan with Controls for Lincoln County on July 13, 1971, and

WHEREAS, the Board is desirous of updating a portion of the Comprehensive Plan relative to the zoning regulations, and

WHEREAS, the 1995 Revised Zoning Ordinance for Lincoln County has been developed in accordance with the Comprehensive Plan and in conformance with the purposes as set forth in SDCL 11-2, and

WHEREAS, the County Planning Commission has conducted a public hearing and recommended to the Board the adoption of the 1995 Revised Zoning Ordinance for Lincoln County, and

WHEREAS, the Board of County Commissioners conducted a public hearing on the ordinance.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Lincoln County that the 1995 Revised Zoning Ordinance for Lincoln County be hereby adopted, and copies filed with the County Auditor and Register of Deeds.

The public may inspect the entire ordinance at the office of the County Auditor during regular business hours.

First Reading: JUNE 19, 1995
Second Reading: JUNE 27, 1995
Publication Date: JULY 5, 1995
Effective Date: JULY 25, 1995
Approved this 27 day of JUNE, 1995.

BOARD OF COUNTY COMMISSIONERS

ATTEST: Helen Nelson, County Auditor