ARTICLE I
GENERAL PROVISIONS

CHAPTER 1.01. TITLE AND APPLICATION.

Section 1.01.01. Title.

This Ordinance may be known and may be cited and referred to as the "Codington County Zoning Ordinance" to the same effect as if the full title were stated.

Section 1.01.02. Jurisdiction.

Pursuant to SDCL 11-2, 1967, as amended, the provisions of this Ordinance shall apply within the unincorporated areas of Codington County, South Dakota, as established on the map entitled "The Official Zoning Map of Codington County, South Dakota."

Section 1.01.03. Purpose.

The Zoning Ordinance is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To assist in the implementation of Codington County's Comprehensive Land Use Plan which in its entirety represents the foundation upon which this Ordinance is based.

2. To foster a harmonious, convenient, workable relationship among land uses.

3. To promote the stability of existing land uses that conform with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions.

4. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the "county community" as a whole.

5. To prevent excessive population densities and overcrowding of the land with structures.

6. To protect and enhance real estate values.

7. To facilitate the adequate provision of transportation, water and sewerage, schools, parks, and other public requirements;

8. To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes;

9. To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of building, structures, and land.

10. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the Comprehensive Land Use Plan.

CHAPTER 1.02. ORDINANCE PROVISIONS.

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

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, ordinance, or Board of Adjustment decision, the most restrictive or that imposing the higher standards, shall govern.

Section 1.02.02. Purpose of Catch Heads.

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of an index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

Section 1.02.03. Violation and Penalty.

1. Violations of the ordinance shall be treated in the manner specified below.

    a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this Zoning Ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All fees assessed there under shall be rounded to the nearest whole dollar.

        i. Upon finding such violation, Codington County Planning and Zoning Staff shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the normal fee for the associated building permit, variance, conditional use, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars ($5.00), including the postage costs.

        ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated building permit, variance, conditional use, and/or rezoning building permit fee plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.

        iii. Any administrative fee or penalty imposed under the provisions of this Zoning Ordinance shall be in addition to any other fees or charges required under this Zoning Ordinance.

b. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The penalty for violation of this Zoning Ordinance shall be two hundred dollars ($200.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the County Auditor and shall be credited to the General Fund of the County.

c. In the event, any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Codington County in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation

d. Any taxpayer of the County may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.04. Separability Clause.

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

Section 1.02.05. Repeal of Conflicting Ordinances.

All ordinances or resolutions or part of ordinances or resolutions in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are repealed entirely.

Section 1.02.06. Effective Date.

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

CHAPTER 1.03. OFFICIAL ZONING MAP.

Section 1.03.01. Official Zoning Map.

1. The unincorporated area of the County is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairperson of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words: “This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 30 of Codington County, State of South Dakota,” together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the County Auditor.

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

Section 1.03.02. Amendment of the Official Zoning Map.

1. If, in accordance with the provisions of this Ordinance changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of County Commissioners, with an entry on the Official Zoning Map as follows: "On (date of adoption) by official action of the Board of County Commissioners, the following change(s) were made on the Official Zoning Map:" (brief description of nature of change), which entry shall be signed by the Chairman of the Board of County Commissioners and attested by the County Auditor.

2. No amendment of this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on the Official Zoning Map.

   No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except with conformity with the procedure set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance.

Section 1.03.03. Interpretation of District Boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole area in the unincorporated portions of the County bounded by the district boundary lines.

2. Boundaries indicated at approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines;

3. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

4. Boundaries indicated as approximately following city limits shall be construed as following such city limits;

5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

6. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and

8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 7 above, the Board of Adjustment shall interpret the district boundaries.

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

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

The new Official Zoning Map shall be identified by the signature of the Chairperson attested by the County Auditor, and bearing the seal of the County under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of Codington County, State of South Dakota.”

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

ARTICLE II
DEFINITIONS

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

Accessory Buildings and 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 or the main use of the premises and which is located on the same lot with such principal building or use. An accessory use is a use which is incidental to the main use of the premises.

Adult. A person, one who has reached the age of eighteen (18).

Adult Amusement or Entertainment. Amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas' or which features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment.

Adult Bookstores. An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

Adult Entertainment Cabaret. Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

Adult Motion Picture Theater. An enclosed building, regardless of its seating capacity, which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Photo Studio. An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas", as herein defined.

Adult Use. The term "adult use" shall include adult entertainment cabaret, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

Agriculture. The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating or storing the produce providing that the operation of any such accessory use shall be secondary to the normal agricultural activities. This definition shall not include intensive agricultural activities such as concentrated animal feeding operations and agribusiness activities.

Airport. A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

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

Animal Unit. See Section 5.21.

Animal Waste, Incorporated. Animal waste applied to the land surface and mechanically mixed into the soil within 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 waters.

Animal Husbandry. The dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business for gainful occupation.

Antenna Support Structure. Means any building or structure other than a Tower which can be used for location of Telecommunications Facilities.

Applicant (when used in regard to concentrated animal feeding operations). An individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

Area of Special Flood Hazard. Means the land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. The area of a special flood hazard refers top the area subject to inundation during the base 100-year flood.

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

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

Basement. A basement has more than one-half (½) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

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

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.

2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.

3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than sixteen (16) square foot in area.

4. Such uses shall be an incidental use with an owner occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.

5. Off-street parking requirements shall be one (1) space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.

6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty (120) day consecutive period.

7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.

8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

Best Management Practices. Measures contained in Soil Conservation Service South Dakota Technical Guide, either managerial or structural, that are determined to be the most effective, practical means of preventing or reducing pollution inputs from non-point sources to water bodies.

Board of County Commissioners. The governing body of Codington County.

Buildable Area. That portion of the lot that can be occupied by the principal use, thus excluding the front, rear, and side yards.

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

Building, Height of. The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip and gambrel roofs.

Campground. Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units an be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles should be sited with consideration for access to the property. The campground should be designed to minimize the impact from adjacent major thoroughfares.

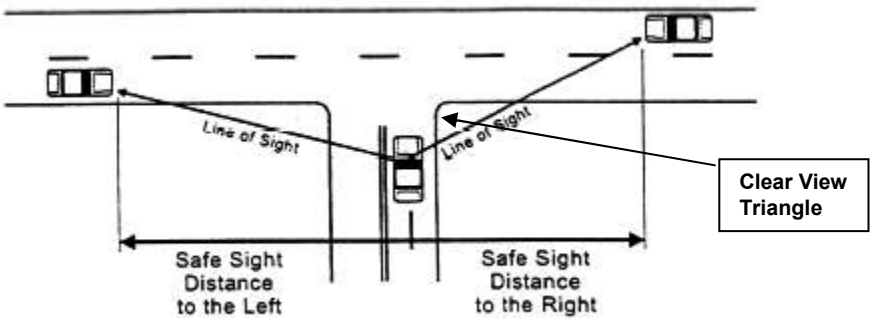
Change in Operation. Change in operation means a cumulative increase of more than three hundred (300) animal units, or change in animal species, after July 1, 1997, which are confined at an unpermitted concentrated animal feeding operation.

Chemigation. The process of applying agricultural chemicals (fertilizer or pesticides) through an irrigation system by injecting the chemicals into the water.

Church. A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities

Class V Injection Well. A conduit through which potentially contaminated but generally non-hazardous fluids can move below land surface into or above an aquifer. The types of primary concern in Codington County are 5W20-industrial process water and waste disposal wells and 5X28-automobile service station disposal wells. Typically, 5W20 types are commercial/ industrial facility septic tanks used to dispose of more than domestic wastewater. 5X28 types are dry wells for wastes from repair bay drains at facilities servicing internal combustion vehicles and equipment.

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



Club, Private. 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. The structure is not available for public use or participation.

Commercial Vehicles. Any motor vehicle licensed by the state as a commercial vehicle.

Comprehensive Plan. The adopted long-range plan intended to guide the growth and development of Codington County.

Concentrated Animal Feeding Operation. A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (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 (2) or more animal feeding operations under common ownership are single animal operation 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 conditional use is any use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district. Conditional uses are subject to the evaluation and approval by the Board of Adjustment and are administrative in nature

Contamination. The process of making impure, unclean, inferior or unfit for use by introduction of undesirable elements.

Contingency Plans. Detailed plans for control, containment, recovery and clean up of hazardous materials released during floods, fires, equipment failures, leaks and spills.

Contractor Shops and Yards. Those facilities to include structures and land areas where the indoor or outdoor storage of equipment and supplies used for various types of construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

Convenience Store. Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

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

Development. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

District, Zoning. A section or sections of the County for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Domestic Sanitary Sewage Treatment Facility. Shall mean the structures equipment and processes required to collect, carry away, and treat and dispose of domestic wastewater, industrial wastes, and or sludge.

Dwelling. Any building, including seasonal housing structures, or a portion thereof, which is designed and used exclusively for residential purposes. This definition does not include a mobile home or manufactured home.

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

Dwelling, Multiple-family. A building occupied by two (2) or more families.

Dwelling, Non-Farm. Any occupied dwelling which is not a farm dwelling.

Dwelling, Single-Family. A building occupied exclusively by one (1) family.

Dwelling. One (1) or more rooms, containing sleeping quarters, in a dwelling occupied as separate living quarters by a single-family.

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

Eligible Building Site (Building Eligibility). A site which fulfills the requirements for the construction or placement of a building.

Engineer. Means any engineer licensed by the State of South Dakota.

Essential Public Services. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures used by public for protection of the public health, safety or general welfare, including towers, poles, wires, mains drains, sewers, pipes, conduits, cables satellite dishes, and accessories in connection therewith.

Existing Farmstead. An existing farmstead shall include a livable house occupied by the owner or tenant within the last three (3) years and shall have been existing on the site for at least five (5) years and the site shall have been used in the past as a farmstead for normal farming operations. In addition The Board of Adjustment may consider defining an identifiable parcel as an existing farmstead if the proposed site meets the following criterion:

1. Evidence that the proposed site was once used for human habitation within the last fifty 50) years. This may be determined by existence of buildings/foundations or tax records.

2. Evidence that the proposed site was used as a farmstead supporting normal farming operations prior to October 26, 1976.

3. Information regarding the location of flood plain, access to roads and utilities, and other appropriate site information may be considered by the Board of Adjustment in determining the suitability of the parcel for development.

Extended Home Occupation. A home occupation conducted outside of the residence and/or in an accessory building

Facility. Something built, installed or established for a particular purpose.

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. This definition shall not include foster families as regulated by the State of South Dakota.

Farm. An area with or without a dwelling which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding, or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine all of the foregoing farm products and animals are raised for income. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities.

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

Firearm. Means a gun that discharges shot, bullet or other projectile by means of an explosive, gas, compressed air, or other propellant.

Five-Year Time of Travel Distance. The distance that ground water will travel in five years. This distance is a function of aquifer permeability and water table slope.

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

1. The overflow of inland or tidal waters and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM). Means an official map of a community on which the Federal Emergency Management Agency has delineated areas of special flood hazard designated as Zone A.

Floodway. The channel and the adjacent areas that must be reserved in order to meet the minimum requirement of the National Flood Insurance Program of providing for the discharge of the base flood without cumulatively increasing the water surface elevation more than one (1) foot. However if there are identifiable flood impacts either upstream or downstream, based upon a scientific engineering study, a more stringent definition of floodway may be justified. That definition would include the channel and the adjacent areas that must be reserved in order to provide for the discharge of the base flood without cumulatively increasing the water surface elevation to a point which may result in additional damages to upstream/downstream properties.

Frontage. All the property on one (1) side of a street or road.

Game Lodge. A building or group of two (2) or more detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged with or without meals, and in which there are sleeping quarters.

Garage, Private. An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, trailers, and boats.

Governmental Agency. An organized entity which, in addition to having governmental character, has sufficient discretion in the management of its own affairs to distinguish it as separate from the administrative structure of any other governmental unit. This definition shall be deemed to include, but is not limited to Codington County, the State of South Dakota, and any School District or Municipality located in Codington County.

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

Greenhouse. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Grey Water. All domestic wastewater except toilet discharge water.

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

Group Home. A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

Hazardous Materials. A material which is defined in one or more of the following categories:

1. Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.

2. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: PCBs in some waste oils.

3. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.

4. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.

5. Moderately Toxic: A gas, liquid or solid which through repeated exposure or in a single large does can be hazardous to man. Example: atrazine.

6. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

Home Occupation. An occupation engaged in by the occupants of a dwelling provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation;

2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use of residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) on-premise sign, not to exceed sixteen (16) square feet in area, non-illuminated.

4. Off premise signage for home occupations shall be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "Blue Signs". These signs, with SDDOT approval, may be located adjacent to State and Federal Highways.

5. No home occupation shall be conducted in any accessory building.

6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such home occupation shall be provided off the street and other than in a required front yard;

7. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

8. The only retail sales allowed shall consist of the sale of commodities/products prepared on the premises in connection with such occupation or activity.

Horticultural services. Commercial services which are oriented to support the science or practical application of the cultivation of fruits, vegetables, flowers, and plants.

Junk Yard. An area of land with or without buildings used for, or occupied by, a deposit, collection, or the storage outside of a completely enclosed building, or used and/or discarded materials such as waste paper, rags or scrap metal, used building materials, home furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same.

Kennel. Any premise or portion thereon where more than five (5) dogs, cats, or other household pets are bred, raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Leaks and Spills. Any unplanned or improper discharge of a potential containment including any discharge of a hazardous material.

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 itself.

Lot. A lot is any lot, plot, or parcel of land under one ownership, occupied or intended for occupancy by a use permitted in this Ordinance including one (1) principal building together with its accessory buildings, open spaces and parking spaces required by this ordinance.

Lot Area. The lot area is the land in square feet or acres within the lot line.

Lot, Corner. A lot abutting upon two (2) or more streets at their intersection.

Lot, Depth of. The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage. A lot having a frontage of two (2) streets as distinguished from a corner lot.

Lot of Record. A subdivision, the plat of which has been recorded in the office of the Register of Deeds, or a parcel of land the deed or agreement to convey to which was recorded in the office of the Register of Deeds. For the minimum lot area requirement (35 acres) not to apply in the "A" Agriculture Zoning District, such lot of record had to be recorded prior to October 26, 1976. For the minimum lot area requirement (10 acres) not to apply in the "C" Commercial Zoning District or "I" Industrial District, such lot of record had to be recorded prior to July 31, 2001. For the minimum lot area requirement (2 acres) not to apply in the "LP" Lake Park Zoning District, such lot of record had to be recorded prior to June 18, 1974.

Lot Width. The width of a lot is the mean distance between straight side lot lines measured at a point fifty (50) feet back from the front line thereof.

Manufactured Home. See Chapter 5.11

Manufactured Home Park. Any manufactured home court, camp, park, site, lot, parcel or tract of land intended for the purpose of supplying a location, or accommodations, for manufactured homes and upon which manufactured homes are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the manufactured home park and its facilities or not. "Manufactured Home Park" shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for the purposes of inspection and sale.

Manure Storage Area. An area for the containment of animal manure.

Mineral. An inanimate constituent of the earth in a solid, liquid or gaseous state which, when extracted from the earth, is useable in its natural form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel and quarry rock.

Mineral Extraction. The removal of a mineral from its natural occurrence on affected land. The term includes, but is not limited to, underground and surface mining.

Modular Home.

1. Modular homes shall meet the following regulations.

    a. Modular homes shall meet or exceed Uniform Building Codes.

    b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.

    c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and 850 square feet split and be placed on a permanent foundation.

    d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.

e. Modular homes shall have a minimum of a 4/12-roof pitch.

f. Have siding material of a type customarily used on site-constructed residences.

g. Have roofing material of a type customarily used on site-constructed residences.

Motel/Hotel. A series of attached, semi-attached, or detached sleeping or living units, for the accommodation of transient guests and not customarily including individual cooking or kitchen facilities, said units having convenient access to off-street parking spaces for the exclusive use of guests or occupants.

Nonconforming Building or Structure or Use. Any building or use of land, land lawfully occupied by a use at the time of passage of this regulation or amendment thereto, which does not conform after the passage of this regulation or amendment.

Nonstandard Use. The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

Outdoor Storage. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Owner (when relating to Wireless Communication Towers). Means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the County who desires to develop, or construct, build, modify, or erect a Tower upon such parcel of land.

Parking Space. An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley.

Parks and Recreation Areas. Public, non-commercial recreation facilities open to the general public an requiring minimal structural development, including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, public campgrounds swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including private, commercial campgrounds, commercial recreation and/or amusement centers.

Pasture. A field providing continuous forage to animals and where the concentration of animals is such that a vegetative cover is maintained during the growing season.

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

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

Plat. The maps, drawing, or chart on which a subdivider's plan of subdivision is legally recorded.

Potential Pollution Hazard. A concentrated animal feeding operation of ten (10) to three hundred (300) animal units may be classified as a Class 4 Operation by the County Zoning Officer when a potential pollution hazard exists. Factors to be considered by the Zoning Officer in determining a potential pollution hazard include the following:

1. The concentrated animal feeding operation does not meet the minimum setback and separation distances of these regulations.

2. A potential water pollution hazard exists due to siting over a shallow aquifer or drainage which contributes to the waters of the State.

Primary Containment Facility. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

Principal Building. The structure in which the principal use of the lot is conducted. For Example a dwelling on a residential lot.

Principal Use. The primary use to which the premises are devoted.

Private Shooting Preserves. An acreage of at least one hundred and sixty (160) acres and not exceeding one thousand two hundred and eighty (1,280) acres either privately owned or leased on which hatchery raised game is released for the purpose of hunting, for a fee, over an extended season.

Private Wind Energy Conversion System (PWECS). Any mechanism or device, not owned by a public or private utility company, designed for the purpose of converting wind energy into electrical or mechanical power to be used on the site where said power is generated.

Process Generated Wastewater. Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

Process Wastewater. "Process wastewater" means any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the animal feeding operation. The term includes runoff from an open lot.

Quarter-Quarter Section. The Northeast, Northwest, Southwest, or Southeast quarter (1/4) of a quarter section delineated by the United States Public Land Survey or a government lot per such survey, if such lot contains a minimum of thirty-five (35) acres.

Range (Target/Shooting). Shall be defined as an area for the discharge of weapons for sport under controlled conditions where the object of the shooting is an inanimate object such as, but not limited to, paper, metal or wooden targets. A Range Officer shall be present on site at any Range when the range is in use. The term range includes archery ranges.

Range Officer. Means the person designated to be responsible at a Range at any given time during any activity.

Religious Conference Facility. One or more buildings or structures whose primary purpose is to provide religious training/service and other associated activities. Such facilities may include but are not limited to recreational facilities; chapels/churches; incidental retail sales; food service; indoor and outdoor recreation – to include including therapeutic horse riding, group assembly, campgrounds; administrative offices; and on-site employee residences. (Ordinance 38)

Religious Farming Community. A corporation formed primarily for religious purposes whose principle income is derived from agriculture and/or a farm which may or may not be held in collective ownership, in which multiple families reside on-site and use or conduct activities upon the property which are participated in, shared, or used in common by the members of the group residing thereon.

Resort. This category provides commercial hospitality lodgings in spacious settings that are principally intended for vacationing, relaxation and conference activities for visitors to the community.

Retail Sales and Trade. Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating and drinking establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.

Rubble Site. A site for the disposition of refuse as defined by the South Dakota Department of Environment and Natural Resources.

Sale or Auction Yard or Barn. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or barn for one (1) day during sale or auction.

Sanitary Landfill. A government-owned site for the disposal of garbage and other refuse material.

Seasonal Camp Trailers or Recreational Vehicles. A vehicle designed for temporary seasonal living quarters.

Secondary Containment Facility. A second tank, catchment pit, pipe or vessel that limits and contains a liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery systems are required.

Service Station, Automobile. Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

Setback. The setback of a building is the minimum horizontal distance between the street or property line and the front line of the building or any projection thereof, except cornices, unenclosed porches, and entrance vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and having no more than fifty (50) square feet area and not extending above the first story of the building.

Setback Between Uses. Unless specifically mentioned within this ordinance, the setback or separation distance between uses is the minimum horizontal distance measured from the wall line of a neighboring principal building to the wall line of the proposed building/structure/use.

Shall means that the condition is an enforceable requirement of this regulation.

Shallow Aquifer. An aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.

Shallow Well. A well which is located in a shallow aquifer.

Shelterbelt. For the purposes of this ordinance a shelterbelt shall include ten (10) or more trees planted in a line, with each trees separated by a distance of forty (40) feet or less. Ornamental and/or shade trees, generally used in front yards and spaced further than thirteen (13) feet apart and further do extend lineally for a distance of over one hundred fifty (150) feet, are not considered shelterbelts.

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

Sign. Any device or structure, permanent or temporary, which directs attention to business, commodity, service or entertainment but excluding any flag, badge or insignia of any government agency, or any civic, charitable, religious, patriotic or similar organizations.

Sign, Abandoned. A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three (3) months shall be considered an abandoned sign.

Sign. Off-premises. Any sign identifying or advertising a business, person, activity, goods, products or services at a location other than where such sign has been erected.

Sign, On-premises. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign has been erected.

Sign Structure. Any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

Significant Contributor of Pollution. To determine if a concentrated animal feeding operation meets this definition, the following factors are considered:

1. Size of feeding operation and amount of manure reaching waters of the state.

2. Location of the feeding operation in relation to waters of the state.

3. Means of conveyance of manure and process wastewater into waters of the state; and

4. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of

discharge of animal wastes and process wastewater into waters of the state.

Sleeping Quarters. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Solution mining. The mining of an ore body with circulation of chemicals through injection and recovery wells. Solution Mining for minerals is prohibited.

Specified Anatomical Areas. Means (1) Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and (2) Genitals of humans or animals in a discernible turgid state, even if completely or opaquely covered.

Specified Sexual Activities. Means (1) Human genitals in a state of sexual stimulation or arousal; (2) Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation; (3) Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast; and (4) Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or "Adult Entertainment Cabaret".

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Stealth. Means any Tower or Telecommunications Facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and Towers designed to look other than like a Tower such as light poles, power poles, and trees. The term Stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole Tower designs.

Street, Highway or Road. All property acquired or dedicated to the public and accepted by the appropriate governmental agency for street, highway or road purposes.

Street, Arterial. A street designated as such on the Major Street Plan of the Comprehensive Plan of Codington County, South Dakota.

Street, Collector. A street designated as such upon the Major Street Plan of the Comprehensive Plan of Codington County, South Dakota.

Street, Local. Any street which is not an arterial street or collector street.

Street, Highway or Road Right-of-Way (ROW) Line. A dividing line between a lot or parcel of land and a contiguous street, highway or road.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on or below the ground.

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

Substantial improvement. Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started, or

2. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this designation, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

   The term does not, however, include either:

   a. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

   b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Telecommunications Facilities. Means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, Telecommunications Facilities shall not include:

1. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or

2. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

Temporary Fireworks Sales Stand. A structure utilized for the licensed resale of fireworks during the time period allowed by South Dakota State Law.

Ten Year Time of Travel Distance. The distance that ground water will travel in ten years. This distance is a function of aquifer permeability and water table slope.

Tower. Means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports Telecommunications Facilities. The term Tower shall not include amateur radio operators' equipment, as licensed by the FCC.

Tree, Ornamental. A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about twenty-five (25) feet or less.

Tree, Shade. For the purposes of this Ordinance, a shade tree is a deciduous tree which is has a mature crown spread of fifteen (15) feet or greater, and having a trunk with at least five (5) feet of clear stem at maturity.

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

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

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

Yard. An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and bearing wall of the main building shall be used.

Yard, Front. A yard extending across the front of a lot between the sideyard lines, and being the minimum horizontal distance between the road right-of-way line and the main bearing wall of the main building or any projections thereof other than the projections of the usual steps, unenclosed balconies or open porch.

Yard, Rear. A yard across the whole width of a lot, extending from the rear line of the building to the rear line of the lot.

Yard, Side. A yard between the building and the adjacent side line of the lot which separates it from another lot, extending from the front lot line to the rear yard.

Zoning Officer. The individual(s) appointed by the Board of County Commissioners and designated to administer and enforce the zoning ordinance.

Zone of Contribution. The entire area around a well or well field that contributes water to the well or wellfield.

ARTICLE III
DISTRICT REGULATIONS

CHAPTER 3.01. APPLICATION OF DISTRICT REGULATIONS.

Section 3.01.01. Application of District Regulations.

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

1. No structure, permanent or temporary, shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit, area and parking requirements of the district in which the building is located. Further, no building or use of land shall be used except for a purpose permitted in the district in which the building or land is located.

CHAPTER 3.02. NONCONFORMING USES.

Section 3.02.01. Purpose and Intent. The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue. Further, it is intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

Section 3.02.02. Continuation of Nonconforming Uses. Subject to the provisions of this article, the lawful use of a premise existing immediately prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof.

Section 3.02.03. Use Becoming Nonconforming by Change in Law or Boundaries. Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions thereof.

Section 3.02.04. Extension or Enlargement. A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located.

Section 3.02.05. Restoration After Damage. When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty (60) percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located.

Section 3.02.06. Repairs and Maintenance. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the nonconformity of the structure shall not be increased.

Section 3.02.07. Unsafe Nonconforming Use. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 3.02.08. Discontinuance of Nonconforming Use. In the event that a nonconforming use is discontinued for more than one (1) year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located.

Section 3.02.09. Effect on Use Which is Illegal Under Prior Law. Nothing in this ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a premises in violation of zoning regulations in effect immediately prior to the effective date of this ordinance.

Section 3.02.10. Powers of the Planning Commission/Board of Adjustment. Nothing contained in this Section shall be so construed as to abridge or curtail the powers of the County Planning Commission or Board of Adjustment as set forth elsewhere in this Ordinance.

Section 3.02.11. 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:

1. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.

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

3. 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.

Section 3.02.12. Nonconforming Lots of Record.

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

2. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.

3. Any area proposed or being developed for residential use in the "A" Agricultural Land District must provide for a minimum of thirty-five (35) acres per lot, unless platted prior to the adoption of Codington County Resolution 1167 (Adopted October 26, 1976). Exception to the lot size may be made according to Codington County Zoning Ordinance Section 3.04.03.

CHAPTER 3.03. ZONING DISTRICTS.

Section 3.03.01. Districts.

1. For the purpose of this Ordinance, the unincorporated areas of the County may be divided into any of the following zoning districts: A-Agricultural; C-Commercial; I- Industrial; LP-Lake Park; NR-Natural Resource; PR-Planned Residential; and TD-Town District. In addition to zoning districts, the FP-Flood Protection and AP-Aquifer Protection zoning overlay districts impose special regulations on the property that may fall within these districts without abrogating the requirements imposed by the underlying land use district regulations.

2. The requirements as set forth below for each of the use districts listed as part of this Ordinance shall govern the development within the said districts as outlined on the map entitled "Official Zoning Map, Codington County, South Dakota."

3. "A" AGRICULTURAL LAND DISTRICT - This district is established to preserve open space and maintain and promote farming and related activities within an environment which is generally free of other land use activities. Residential development will be discouraged to minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.

4. “AP” AQUIFER PROTECTION OVERLAY DISTRICT - The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Codington County.

5. "C" COMMERCIAL DISTRICT - The Commercial District is intended to provide areas for commercial activities oriented primarily to, and supportive of, farming and other activities which are determined to be appropriate in the rural area.

6. "FP" FLOOD PROTECTION OVERLAY DISTRICT - The Flood Protection Overlay District is established to protect the natural environment and resources from destructive land uses and to protect lives and property along and adjacent to streams and rivers.

7. "I" INDUSTRIAL DISTRICT - The Industrial District is established primarily for warehousing and light manufacturing. Heavy industrial uses such as manufacturing which produces smoke, noise, dust, odor, and/or heavy traffic; also for storage areas for inflammable or otherwise dangerous materials shall require special review and consideration.

8. "LP" LAKE-PARK DISTRICT - Lake Park District is to provide for orderly low residential and recreational development, together with certain public facilities, customary home occupations, and certain commercial establishments, along lakeshores.

9. "NR" NATURAL RESOURCE DISTRICT - The Natural Resource District is to provide for the retaining of natural vegetation of a particular area, to preserve the natural environment and resources from destructive land uses, and to protect wildlife habitat. Such areas may include, but are not limited to, flood plains of rivers, streams, and lakes, abandoned quarries, certain wetlands and natural prairies, and historical sites.

10. "PR" PLANNED RESIDENTIAL DISTRICT - The Planned Residential District is to provide for residential subdivisions which, through their design and development, will limit the amount of agricultural land that is taken out of production, will not require excessive public expenditures for roads or other improvements and services, and which will minimize the conflict between farm and non-farm uses.

11. "TD" TOWN DISTRICT - The Town District is established to provide for orderly low density residential development, together with certain public facilities, and commercial/industrial uses which are not detrimental in the unincorporated towns of Codington County.

Section 3.03.02. Prohibited Uses.

All uses and structures not specifically listed as a permitted use or as a conditional use in a particular zoning district or overlay district shall be prohibited in said district.

CHAPTER 3.04. "A" AGRICULTURAL LAND DISTRICT.

Section 3.04.01. Permitted Uses.

1. Agricultural activities and farm related buildings, including Type 5 Concentrated Animal Feeding Operations.

2. One (1) single-family non-farm dwelling, including site-built homes, modular homes, and Type A manufactured homes for each quarter-quarter section not already containing a farm dwelling or a non-farm dwelling.

3. Farm dwellings and farm buildings.

4. Fisheries services and Game propagation areas.

5. Public park and recreation areas.

6. Field crops and grasslands.

7. On-premise signs.

8. Accessory uses and buildings.

9. Orchards and tree farms.

10. Temporary roadside stands for sales of agricultural products grown or produced on the premises.

11. Home occupation.

12. Botanical gardens (nurseries and greenhouses) – without retail sales.

13. Stables.

14. Private Wind Energy Conversion System (PWECs).

Section 3.04.02. Conditional Uses.

1. Airports and airstrips.

2. Churches and Cemeteries.

3. Commercial public entertainment enterprises not normally accommodated in commercial areas including, but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races.

4. Sand, gravel or quarry operation; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants provided:

    a. The site meets the requirements of the State Department of Environment and Natural Resources.

b. A site plan is provided indicating the following information:

i. Present topography, soil types, and depth to groundwater.

ii. Location of existing water drainage, existing buildings, existing shelterbelts.

iii. Identification of roads leading to the site.

iv. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.

v. Proposed monitoring wells, etc.

vi. A requirement for receiving a permit for extractive/mining operations shall include a haul-road agreement between the applicant and appropriate governmental entity (Federal, State, County, Township, or Municipality).

vii. The applicant may be required to provide information regarding how potential air, noise, and water pollution would be minimized.

viii. The applicant shall provide for a plan for land reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands. The reclamation plan shall include:

a. A reclamation schedule.

b. Methods of plugging drill holes.

b. Methods of severing and returning topsoil and subsoil.

c. Methods of grading, backfilling and contouring of exploration sites, access roads, and mining sites.

d. Methods of waste management and disposal, including liquid and solid wastes.

e. Method of revegetation.

ix. The applicant may be required to post a surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate of the cost of reclamation and decontamination. The bond shall be released five (5) years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.

x. Sand, gravel or quarry operation; Mineral exploration and extraction operations; rock crushers; and concrete/ asphalt mixing plants will not be allowed within one thousand (1,000) feet of a residence. The setback will be measured from the mineral exploration and extraction operations; rock crushers; and/or concrete and asphalt mixing plant's property line to the nearest residence. The exception to this standard would apply to residences owned and lived in by the operator of the mineral exploration and extraction operations; rock crushers, and/or concrete/asphalt mixing plants.

xi. Sand, gravel or quarry operation; Mineral exploration and extraction; rock crushers; and/or concrete and asphalt mixing plants shall be set back at least sixty-five (65) feet from any public right-of-way.

5. Private club.

6. Sanitary landfills provided:

   a. The site meets the requirements of the State Department of Environment and Natural Resources.

   b. A site plan is provided indicating the following information:

      i. Present topography, soil types, and depth to groundwater.

      ii. Location of existing water drainage, existing buildings, existing shelterbelts.

      iii. Identification of roads leading to the site.

      iv. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.

      v. Proposed monitoring wells, etc.

      vi. No sanitary landfill will be allowed within two thousand six hundred forty (2,640) feet from the landfill property line to the nearest residence or commercial use; excluding: the residence of the landfill operator.

7. Domestic sanitary sewer treatment plant/facility.

   a. The site meets the requirements of the State Department of Environment and Natural Resources.

   b. A site plan is provided indicating the following information:

      i. Present topography, soil types, and depth to groundwater.

      ii. Location of existing water drainage, existing buildings, existing shelterbelts.

      iii. Identification of roads leading to the site.

      iv. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.

v. Proposed monitoring wells, etc.

vi. No sewage treatment plant/facility will be allowed within one thousand three hundred twenty (1,320) feet from the sewage treatment plant/facility property line to the nearest residence; excluding: the residence of the landfill operator.

8. Class 1, Class 2, Class 3, and Class 4 concentrated animal feeding operations. See Concentrated Animal Feeding Operation, Section 5.21.

9. Commercial Stables.

10. Junkyards/salvage yards, provided that they meet the following minimum requirements and other restrictions that the Board of Adjustment may deem appropriate:

a. Junkyards/salvage yards shall be set back a minimum of one thousand three hundred twenty feet (1,320) feet from any adjoining road right-of-way.

b. No junkyards will be allowed within three hundred thirty (330) feet from any adjoining property line.

c. Junkyards shall be screened on all sides by a solid wall, with construction materials and design to be approved by the Board of Adjustment, at least two (2) feet above the highest stock pile or by a shelterbelt of shrubs and trees as approved by the Board of Adjustment; screening must be maintained in good repair.

d. No junkyards will be allowed within one thousand (1,000) feet from the junkyard property line to the nearest residence; excluding: the residence of the junkyard operator.

e. All junkyards must have a minimum lot area of ten (10) acres.

11. Public utility and public service structure including transmission lines, substations, gas regulator stations, pipelines, community equipment buildings, pumping stations, and reservoirs.

12. Land application of petroleum-contaminated soils.

11. Institution farms, including religious farming communities.

14. Bed and breakfast.

15. Wireless Telecommunications Towers and Facilities.

16. Extended home occupation (See Section 5.12).

17. Type B manufactured home not connected to an existing farmstead.

18. Game Lodge.

19. Group Homes.

20. Kennels.

21. Wind Energy System (WES). (See Section 5.22).

22. Public or private motorcycle recreation facilities.

23. Target/Shooting Range.

24. Veterinarians offices and animal hospitals.

25. Golf course, golf driving range, clubhouse.

26. Seasonal retail stands – including produce and fireworks - utilizing a permanent structure.

27. Livestock sales barns.

28. Fur farms.

29. Rubble sites, composting sites, waste tire sites, restricted use sites, and other sites governed by the South Dakota Department of Environment and Natural Resources permits for solid waste.

30. Government grain storage sites.

31. Horticultural services.

32. Orchards and tree farms with retail sales.

33. Truck gardening.

34. Botanical gardens (nurseries and greenhouses) with retail sales.

35. Schools.

36. Private shooting preserve.

37. Temporary roadside stands not utilizing a permanent structure for sales of fireworks.

38. Religious Conference Facility (ordinance 38)

39. Storage of Fireworks in a temporary structures. (Ordinance 39)

40. Public building or facilities erected or established and operated by any governmental agency. (Ordinance 48)

Section 3.04.03 Area Regulations/Easement/Waivers

All buildings shall be set back from street right-of-way lines and lot lines to comply with the following yard requirements:

1. Lot Size: All eligible building lots for permitted uses shall be a minimum of thirty-five (35) acres, except as provided in 7.a and 7.b of this Section.

2. Lot Width: The lot width shall be a minimum of thirteen hundred (1,300) feet.

   EXCEPTION: A residential dwelling may have a minimum lot width of six hundred fifty (650) feet if the depth of the lot is at least two thousand three hundred and forty-five (2,345) feet. This exception shall require Board of Adjustment approval.

3. Front Yard: The minimum depth of the front yard shall be sixty-five (65) feet and in no case shall an accessory building be located or extend into the front yard. In the case of a corner lot, front yards shall be provided on both streets.

4. Conditional uses shall have minimum lot area and setback regulations determined by the Board of Adjustment.

   a. EXCEPTIONS:

      i. A structure with the floor space of less than two hundred (200) square feet shall have a front yard minimum depth of one hundred sixty-five (165) feet.

      ii. Existing nonconforming residential structures, constructed prior to January 1, 2006, on a lot of record or on a lot containing at least thirty-five (35) acres although considered nonconforming, are eligible to be expanded or added onto, without Board of Adjustment Approval, as long as the existing front, side or rear yard setback(s) is not further encroached upon.

4. Side Yard: The minimum width of a side yard shall be twenty-five (25) feet.

5. Rear Yard: The minimum depth of a rear yard shall be twenty-five (25) feet.

6. Maximum Lot Coverage: Dwellings and buildings accessory thereto shall cover not more than twenty-five (25) percent of the lot area.

7. The Board of Adjustment may allow a smaller minimum lot requirement for the "A" Agricultural District under the following conditions:

   a. Where a permit for an additional single-family farm dwelling is requested on an existing farmstead, provided:

      1. The dwelling is located on the same legal description as the existing farmstead.

      2. The maximum number of dwelling units within the existing farmstead will not exceed two (2).

      3. The dwelling is occupied by employees or relatives of the farm owner.

      4. The additional single-family farm dwelling shall be removed in the event the structure becomes a non-farm dwelling.

   b. Where an existing farmstead is to be divided from adjacent farmland into a single separate parcel of five (5) acres or more.

8. Height Regulations:

   No principal building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. Exceptions include the following structures:

   a. Agricultural buildings.

   b. Chimneys, smokestacks, cooling towers.

c. Radio and TV towers.

d. Water tanks.

e. Wind Energy System (WES).

f. Wireless Telecommunications Towers and Facilities.

g. Others, as determined by the Board of Adjustment, providing that they are not used for human occupancy.

9. Agriculture Easement/Waiver:

a. All new residential development (farm and non-farm) shall be required to file an "Agricultural Easement" with the Register of Deeds before the issuance of a building permit. (See Chapter 5.27)

b. Applicants for residential development (farm and non-farm) are required to obtain a written waiver from the owner/operator of any existing concentrated animal feeding operation which is closer than one-half (1/2) mile from the proposed residential building site. If the applicant is unable to obtain the written waiver, he/she shall be required to file a waiver with the Register of Deeds waiving any or all common law challenges to future expansions of the said existing concentrated animal feeding operation. The waiver is to be filed with the Register of Deeds. (See Chapter 5.29)

10. Access

a. The drive-way serving the parcel shall be separated from adjacent driveways on the same side of the road by the following distances depending upon road types:

i. Local road: 100 feet.

ii. Collector road: 300 feet.

iii. Arterial road: 500 feet.

iv. Minimum distance from intersection of two (2) or more of the above: 100 feet.

b. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

CHAPTER 3.05 "C" COMMERCIAL DISTRICT.

Section 3.05.01. Permitted Uses.

1. Field crops and grasslands.
2. On-premise signs.
3. Accessory uses and buildings.
4. Orchards and tree farms.
5. Temporary roadside stands for sales of agricultural products grown or produced on the premises.

Section 3.05.02. Conditional Uses.

1. Wholesale warehouse and distributing.
2. Welding and machine shops.
3. Gas, oil, liquid propane and liquid hydrogen stations including bulk stations.
4. Public and private utilities.
5. Livestock sales.
6. Contractors' shops and yards including offices when in conjunction with a shop or yard.
7. Government-owned highway and street maintenance shops.
8. Implement sales and service.
9. Truck terminals and freight warehouses.
10. Seed sales and grain storage, fertilizer and chemical storage and sales.
11. Recreation vehicle sales and park.
12. Bar/Tavern.
13. Commercial stables.
14. Kennel with or without animal grooming.
15. Veterinary clinics.
16. Wireless telecommunication towers and facilities.
17. Convenience store/service station.
18. Seasonal retail stands utilizing a structure (temporary or permanent).

19. Commercial orchards, tree farms, truck gardening, and greenhouses – with retail sales.

20. Motel/hotel.

21. Off-premise Signs.

22. Light manufacturing.

23. Commercial animal husbandry service.

24. Manufactured Home Park existing prior to June 18, 1974. (Ordinance 38)

Section 3.05.03. Area Regulations.

1. Lot Size. Each lot shall contain a minimum of ten (10) acres and shall provide off-street parking at a ratio of three (3) square feet of parking area for each square foot of building area used as retail sales area; provided there shall be a minimum of fifteen hundred (1,500) square feet of space for off-street parking.

2. Front Yard: The minimum depth of the front yard shall be one hundred (100) feet and in no case shall an accessory building be located or extend into the front yard. In the case of a corner lot, front yards shall be provided on both streets. Exception: The minimum front yard setback for off-premise signs, where the face of the sign is perpendicular to the Interstate 29 right-of-way, shall be ten (10) feet.

3. Building Height. No building shall exceed four (4) stories or fifty (50) feet in height.

4. Side and Rear Yard: The minimum side yard and rear yards shall be fifty (50) feet.

5. Access. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit.

6. Storage. All outdoor storage within five hundred (500) feet of a residential dwelling must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair. The County may require hard surfacing of parking lots.

CHAPTER 3.06. "I" INDUSTRIAL DISTRICT.

Section 3.06.01. Permitted Uses.

1. On-premise signs.

2. Field crops and grasslands.

3. Accessory uses and buildings.

Section 3.06.02. Conditional Uses.

1. Uses permitted by conditional use in the “C” Commercial District, except implement sales and service; recreation vehicle sales and parks, bar/tavern, commercial stables, veterinary clinics convenience store/service station, Seasonal retail stands utilizing a permanent structure, commercial orchards, tree farms, truck gardening, and greenhouses; and Motel/hotel.

2. Agricultural product processing facilities such as ethanol plants and corn/soybean processing.

3. Crematory.

4. Explosive manufacture or storage.

5. Fertilizer manufacture.

6. Incineration or reduction of garbage, dead animals, fat or refuse.

7. Soap manufacture.

8. Tanning of leather, rawhide, or skins.

9. Off-premise signs.

10. Adult uses. (See Chapter 5.30).

11. Any permitted residential use in the “A” Agricultural District, where such use existed prior to June 18, 1974, and where such conditional use, if granted, will be limited to rebuilding, remodeling, of such pre-existing residence or construction of a new residence on the site of the pre-existing residence.

12. Other industrial or commercial uses determined by the Board of Adjustment to be consistent with the intent of this District that can meet the performance standards listed in section 3.06.04.

Section 3.06.03. Area Regulations.

1. Lot Area. Lot area shall be determined by need, setback, side yards, rear yards, parking requirements, freight handling requirements, building site and future expansion; however, in no case shall a lot have less than ten (10) acres. An applicant for a conditional use shall provide a proposed site plan which can be reviewed by the Board of Adjustment.

2. Front Yard: The minimum depth of the front yard shall be one hundred (100) feet and in no case shall an accessory building be located or extend into the front yard. In the case of a corner lot, front yards shall be provided on both streets. Exception: The front yard setback for off-premise signs, where the face of the sign is perpendicular to the Interstate 29 right-of-way, shall be ten (10) feet.

3. Side Yards. On lots adjacent to a residential area, all buildings and incidental areas shall be located so as to provide a minimum side yard of one hundred (100) feet, which shall be landscaped on the side adjacent to the residential area. All other side yards shall be a minimum of fifty (50) feet.

4. Rear Yards. No building shall be constructed within fifty (50) feet of the rear lot line. The rear yard shall be one hundred (100) feet if the lot abuts a major highway.

5. Height Regulations. None.

6. Storage. All outdoor storage within five hundred (500) feet of a residential dwelling shall be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair. The County may require hard surfacing of parking lots.

7. Access. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit.

Section 3.06.04. Performance Standards.

1. **Noise.** All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

2. **Air Pollution.** State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.

3. **Odor.** The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.

4. **Glare, Heat or Radiation.** Every use shall be so operated that there is no emission of heat, glare or radiation visible or discernable beyond the property line.

5. **Vibration.** Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.

6. **Sewage and Liquid Wastes.** No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.

7. **Fire Hazard.** All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the County Commissioners

8. **Physical Appearance.** All operations shall be carried on within an enclosed building except that new or operable equipment may be displayed or stored in the open and waste materials stored in enclosed containers not readily visible from the street.

CHAPTER 3.07 "LP" LAKE PARK DISTRICT.

Section 3.07.01. Areas Contained in Lake Park District.

All land unless otherwise zoned, within one thousand (1,000) feet of the State Established normal high water elevation of Lake Pelican, Punished Woman Lake or a designated lake, as identified on the Official Zoning Map, shall be contained in the Lake Park District and usage shall conform to the regulations for this district.

Section 3.07.02. Permitted Uses.

1. Site-built single-family dwelling.
2. Public parks and recreation areas.
3. Agricultural or horticulture uses excluding concentrated animal feeding operations.
4. Modular home.
5. Type A manufactured home.
6. Attached garages and unattached private garages with sidewalls less than ten (10) feet and conform to the design of the house.
7. Essential public services.
8. Accessory uses to include but not limited to boathouses further than fifty (50') feet from the highwater mark, or sheds, piers and docks.

Section 3.07.03. Conditional Uses.

1. Twin homes.
2. Private parks and campgrounds.
3. Boathouses within fifty (50) feet of high water mark.
4. Multiple family dwellings, including condominiums.
5. Unattached garages with sidewalls greater than ten (10) feet or do not conform to the design of the house.
6. Type B manufactured home.
7. Commercial storage garages.
8. Home occupation.
9. Extended home occupation.

Section 3.07.04 Area Regulations

1. Table 3.07.04.1 Lots Adjacent to Lake

	Minimum Lot Area (Sq. Ft)	Minimum Lot Width	Minimum Lot Depth	Minimum Side Yard	Minimum Front Yard (1)	Minimum Rear Yard (Lake Front)	Maximum Height
Central Sewer or Holding Tank and Rural or Municipal Water							
Single Family Dwelling	15,000	75’	200’	8’	30’	65’	30’
Multiple Family Dwelling	20,000	100’	200’	10’	30’	65’	45’
Septic Tank with Drain Field or Mound system combined with Private Well, Rural or Municipal Water							
Single Family Dwelling	87,120 (2 acres)	100’	200’	15’	30’	65’	30’

(1) Side of lot facing road right-of-way or access easement.

2. Table 3.07.04.2 Lots Not Adjacent to Lake

	Minimum Lot Area (Sq. Ft)	Minimum Lot Width	Minimum Lot Depth	Minimum Side Yard	Minimum Front Yard (1)	Minimum Rear Yard	Maximum Height
Central Sewer/Holding Tank and Rural or Municipal Water							
Single Family Dwelling	15,000	75’	200’	8’	30’	50’	30’
Multiple Family Dwelling	20,000	100’	200’	10’	30’	50’	45’
Septic Tank with Drain Field and Private Well, Rural or Municipal Water							
Single Family Dwelling	87,120 (2 acres)	100’	200’	25’	65’	50’	30’

(1) Side of lot facing road right-of-way or access easement.

3. Regulations applicable to all lots in the Lake Park District:

a. On those lots platted prior to June 18, 1974 which have a lot width of less than seventy-five (75) feet, each building shall have a side yard of not less than a distance equal to ten (10) percent of the lot width. Under no circumstances shall a building have a side yard of less than five (5) feet. Roof overhangs may infringe upon the side yard requirements no more than one and one-half (1.5) feet.

b. Regarding Lake Pelican, no structure except piers and docks shall be placed at an elevation such that the lowest floor, including basement or crawl space, is less than one (1) foot above the base flood elevation of 1716.3' NGVD 1929 or 1717' NAVD 1988. In those instances where sufficient data on known high water levels are not available, the elevation line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be required to stabilize or be tamped down before construction is begun.

c. Regarding other Lake Park Districts, no structure except piers and docks shall be placed at an elevation such that the lowest floor, including basement or crawl space, is less than one (1) foot above the base flood elevation. In those instances where sufficient data on known high water levels are not available, the elevation line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be required to stabilize or be tamped down before construction is begun.

d. Sealed holding tanks for dwellings are required for all lots of record containing less than twenty thousand (20,000) square feet and not connected to a central sewer system. Existing septic tanks and drainfields (as of January 1, 2006) on lots with an area of less than twenty thousand (20,000) square feet are considered nonconforming uses and shall not be allowed to be replaced after the adoption of this ordinance.

e. There shall be no more than one (1) principal residential building on any parcel of land.

f. Where two (2) parcels of land are purchased and joined together by one (1) common boundary, the setbacks established above shall pertain to the perimeter of the combined lots.

g. The maximum size of attached and unattached garages shall be a function of the size of the lot area. The size of garages, attached and unattached, located on nonconforming lots of record shall conform to the following requirements Table 3.07.04.3:

Table 3.07.04.3

Lot Area	Maximum Size
1 to 10,000 Square Feet	Seven (7) percent of the lot area
10,001 to 20,000 Square Feet	Seven hundred (700) square feet or six (6) percent of the lot area – whichever is greater
20,0001 to 43,560 Square Feet	One thousand two hundred (1,200) square feet or five (5) percent of the lot area – whichever is greater
43,561 to 87,119 Square Feet	Two thousand one hundred seventy eight (2,178) square feet or four (4) percent of the lot area – whichever is greater
Over 87,120 Square Feet	Three thousand four hundred eighty five (3,485) square feet or three (3) percent of the lot area – whichever is greater

Section 3.07.05. Shoreline Alterations.

1. These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion, and reduce effluent and nutrient flow from the shoreline.

2. Removal of Shore Cover. Tree and shrub cutting in a strip paralleling the shoreline and extending a minimum of thirty-five (35) feet inland from all points along the normal high water mark of the shoreline shall be limited in accordance with the following provisions.

   a. Cutting shall, at a minimum, leave sufficient cover to screen cars, buildings, except boathouses, as seen from the water; to preserve natural beauty and to control erosion.

   b. Natural shrubbery shall, at a minimum, be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding run-off, preventing erosion, and preserving natural beauty.

   c. The removal of natural shrubbery and its replacement shall require the granting of a permit by the County Zoning Officer. Application for such permit shall be accompanied by a plan showing the work to be accomplished.

3. Shoreline Stabilization

   Shoreline stabilization, including but not limited to riprapping and retaining walls, shall require the granting of a permit by the Zoning Officer.

Section 3.07.06. Filling, Grading, Lagooning, and Dredging.

1. Filling, grading, lagooning, and dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation, or impairment of fish and aquatic life is prohibited within an "LP" District.

2. A permit shall be required for any filling or grading.

   a. This does not apply to soil conservation practices such as terraces, run-off diversions and grassed waterways which are used for sediment retardation.

   b. Issuance of the permit shall include review from the Corps of Engineers and/or other appropriate State and/or Federal agencies

3. A permit shall be required before constructing, dredging, or commencing work on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway.

   a. This requirement does not apply to soil conservation practices such as terraces, run-off diversions, and grassed waterways which are used for sediment retardation.

   b. Issuance of the permit shall include review from the Corps of Engineers and/or other appropriate State and/or Federal agencies.

Section 3.07.07. Sewage Systems.

1. The developer of any plat shall provide for County approved sewage systems and provide provisions that are binding on the developer before such plat is approved. At a minimum, the installation and utilization of individual on-site wastewater systems shall meet state regulations, Chapter 74:53:01.

2. The developer of any plat shall be liable for the execution of the provisions required above to protect waters of the state from pollution and shall be liable for any pollution that occurs for failure to execute such provisions.

Section 3.07.08. Agricultural Easement.

1. All new residential development (farm and non-farm) in the Lake Park District shall be required to file an "Agricultural Easement" before the issuance of a building permit.

CHAPTER 3.08. “NR" NATURAL RESOURCE DISTRICT.

Section 3.08.01. Permitted Uses.

1. Wildlife production areas.
2. Game refuges.
3. Historic sites and/or monuments.
4. Designated natural prairies.
5. Public hunting and fishing access areas.

Section 3.08.02. Conditional Uses.

1. Transportation and utility easements and rights-of-way.
2. Utility substations.
3. Public parks and/or playgrounds.
4. Horticulture uses and livestock grazing.
5. Essential services,
6. Mineral exploration and development, sand, gravel, or quarry operation.

Section 3.08.03. Shoreline Alterations, Filling, Grading, Dredging, and Lagooning.

1. Shoreline stabilization, filling, grading, dredging, and lagooning projects in the “NR” District shall be governed by Sections 3.07.05 and 3.07.06 of this ordinance.

CHAPTER 3.09 "PR" PLANNED RESIDENTIAL DISTRICT.

Section 3.09.01. Planned Residential District Standards and Requirements.

1. The use of land in the Planned Residential District shall be limited to non-farm single-family dwelling units and their supporting services. However, the Board of Adjustment may consider commercial and/or public uses supportive of the proposed Planned Residential District.

2. The Planned Residential District shall not be permitted on a parcel of land less than thirty-five (35) acres in area.

3. All roads, common facilities, and open spaces within the Planned Residential District shall be maintained by a homeowner's association.

4. Planned Residential Districts within two miles of Watertown and one (1) mile of any other incorporated community will be submitted to the community governing body for review and comment.

5. Where a proposed Planned Residential District is within two (2) miles of Watertown or one (1) mile of any other incorporated area, the Codington County Planning Commission may require the developer to construct proposed improvements to specifications approved by the community's governing body.

6. Strip or linear development proposals along a road or highway will not qualify as a Planned Residential District.

7. The overall density of a Planned Residential District shall not be less than one (1) housing unit per three (3) acres of land.

8. Minimum lot size shall not be less than that required by the South Dakota Department of Environment and Natural Resources regulations on Private Sewage Disposal Systems (Chapter 34:04:01).

9. In addition to the Codington County Zoning Regulations, any proposed Planned Residential Districts are subject to platting and subdivision regulations of the county.

10. Access to public dedicated streets and roads shall be limited. Dwelling units shall not access public road right-of-ways. Dwelling unit access shall be provided through the interior street/road system.

11. Planned Residential Districts must have access to a concrete or bituminous-asphalt street. Further all interior streets constructed within the Planned Residential District shall be either concrete or asphalt with the design to be approved by the County Highway Superintendent.

12. Planned Residential Districts are not allowed over the shallow aquifer or wellhead protection areas.

    EXCEPTION: A Planned Residential District may be allowed over a shallow aquifer the proposed Planned Residential District utilizes a Board of Adjustment approved central sanitary sewer collection system, which may consist of holding tanks, trunk lines, lift stations, and treatment facilities.

13. Easements per 3.04.03.9 of this ordinance shall be required to be placed on any lot in a Planned Residential District in order to protect agricultural operations or practices in the adjoining areas.

Section 3.09.02. Procedure for Planned Residential District.

The following shall be observed when a Planned Residential District proposal is submitted for consideration:

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit three (3) copies of a preliminary development plan to the commission for study at least seven (7) days prior to the commission meeting at which it is to be considered. The preliminary plan shall include the following information.

    a. Location map showing the relationship of the proposed district to existing roads and property lines;

    b. Proposed land uses, building locations, and housing unit densities;

    c. Proposed circulation pattern indicating the status of street ownership;

    d. Proposed open space uses;

    e. Proposed grading and drainage pattern;

    f. Proposed method of water supply and sewage disposal;

    g. Relation of the proposed development to the surrounding area and comprehensive plan.

c. Copies of the proposed water and sanitary sewer system may be submitted to the South Dakota Department of Environment and Natural Resources for study and comment.

d. A list and schedule of improvements to be completed by the developer must be submitted.

4. In reviewing the plan, the Commission shall need to determine that:

    a. Resulting development will not be inconsistent with the Comprehensive Plan objectives or zoning provisions of the area.

    b. The plan can be completed within a reasonable period of time.

    c. The streets are adequate to support the anticipated traffic and the development will not overload the roads outside the planned area.
    d. Proposed utility and drainage facilities are adequate for the population densities proposed.

5. In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purpose of this ordinance.

6. Before approving a Planned Residential District, the Planning Commission must have copies of proposed deed restrictions, agreements for maintenance by the homeowners' association of common facilities and open spaces, guarantees (surety bonds, etc.) by the developer for the completion of the development in accordance with the approved plan, and an agreement binding successors who may take over completion of the development to conditions of the plan approval.

7. The Planning Commission shall follow the procedure for considering an amendment to the Codington County Official Zoning Map before approving a Planned Residential District.

8. Permits for construction in a Planned Residential District shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Commission for processing as an amendment to this ordinance.

CHAPTER 3.10. TD" TOWN DISTRICT.

Section 3.10.02. Permitted Uses.

1. Single-family residential usage, including Type A manufactured homes permitted; Type B manufactured homes, provided that provisions of Section 5.7 are met.

2. Public parks.

3. Agriculture and horticulture uses, excluding feedlots.

Section 3.10.02. Conditional Uses.

1. Retail and service business.

2. Light manufacturing.

3. Bar or tavern.

4. Warehouse.

5. Multi-family housing.

6. Home occupation.

7. Manufactured home park.

8. The Board of Adjustment may permit other uses which in its opinion are not detrimental to other uses. These may include manufacturing and processing uses.

Section 3.10.03. Area Regulations

1. **Residential Uses/Lots** - Structures on all corner lots shall observe two (2) front yards. The depth of the front yard on each street which the lot abuts, shall be as follows.

   a. Minimum Yard Requirements:

      Front -- Twenty-five (25) feet
      Side -- Fifteen (15) feet
      Rear -- Twenty-five (25) feet

   b. Minimum Lot Size:

      Public Water Supply/Septic Tank -- 20,000 Sq. Ft.
      Well/Septic Tank ---------- 43,560 Sq. Ft.
      Public Water Supply/Public Sewer - 9,600 Sq. Ft.

2. **Commercial Uses/Lots** - Lot size shall be determined by off-street parking needs; availability of water and sewage disposal systems; adjacent land uses; need for screening; and type of business. Front, side, and rear yards shall be determined by the Board of Adjustment.

3. Industrial Uses/Lots

Lot size shall be determined by off-street parking needs; impact of adjoining land use and need for screening or buffering from residential areas; availability of water and sewage disposal facilities; type of manufacturing or storage facilities; type of manufacturing or storage facilities. Front, side, and rear yards shall be determined by the Board of Adjustment.

CHAPTER 3.11. FLOOD PROTECTION OVERLAY DISTRICT.

Section 3.11.01. Statutory Authorization, Findings of Fact, Purpose and Methods of Reducing Flood Losses.

1. Statutory Authorization

   The Legislature of the State of South Dakota has in SDCL Chapter 11-2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Commissioners of Codington County, South Dakota, ordain as follows:

2. Findings of Fact

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

   b. These flood losses are caused by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

3. Statement of Purpose

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

   a. To protect human life and health;

   b. To minimize expenditure of public money for costly flood control projects;

   c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

   d. To minimize prolonged business interruptions;

   e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

   f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

   g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

   h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

4. Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations include methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 3.11.02. General Provisions.

1. Lands to which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Codington County.

2. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Codington County," dated January 16, 2009, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

3. Compliance

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of these regulations and other applicable regulations.

4. Abrogation and Greater Restrictions

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation

In the interpretation of these regulations, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and

c. Deemed neither to limit nor repeal any other powers granted under State statutes.

6. Warning and Disclaimer of Liability

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

Section 3.11.03. Administration.

1. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.11.02 (2) (BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD). Application for a development permit shall be made on forms furnished by the Zoning Officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in questions; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

b. Elevation in relation to mean sea level to which any structure has been floodproofed;

c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in 3.11.04 (2) (c) (Non-residential Construction); and

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Zoning Officer

The Zoning Officer is hereby appointed to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

3. Duties and Responsibilities of the Zoning Officer

Duties of the Zoning Officer shall include but not be limited to:

a. Permit Review

i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.

ii. Review all development permit to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, “adversely affects” means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

iv. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

v. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer’s certification) for the proposed development shall be required.

vi. If the proposed development is a building, then the provisions of these regulations shall apply.

b. Uses of Other Base Flood Data

i. When base flood elevation data has not been provided in accordance with Section 3.11.02 (2) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the zoning Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with 3.11.04 (2), SPECIFIC STANDARDS.

ii. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

iii. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

4. Information to be Obtained and Maintained

    a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

    b. For all new or substantially improved floodproofed structures:

        i. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

        ii. Maintain the floodproofing certification required in Section 3.11.03 (1) (c).

    c. Maintain for public inspection all records pertaining to the provisions of these regulations.

5. Alteration of Watercourses

    a. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

    b. Notify adjacent communities and State Coordinating Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

    c. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

6. Interpretation of FIRM Boundaries

    Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions).

7. VARIANCE PROCEDURES

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

    b. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

    c. Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision in the courts of competent jurisdiction.

    d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

f. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in 3.11.03 (4) (b) (i) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

g. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (3.11.01 (3)).

h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

j. Prerequisites for granting variances:

    i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

    ii. Variances shall only be issued upon:
        a. showing a good and sufficient cause;
        b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
        c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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

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

    i. the criteria outlined in 3.11.03 (7) (a-j) are met, and
    ii. the structure or other development is protected by methods that minimize flood
    iii. damages during the base flood and create no additional threats to public safety.

Section 3.11.04. Provisions for Flood Hazard Reduction

1. General Standards

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

   a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

   b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

   c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

   d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

   f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

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

2. Specific Standards

   a. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) 3.11.02 (2), (ii) 3.11.03 (3) (b), or 3.11.04 (3) (c), the following provisions are required:

   b. Residential Construction -new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in 3.11.03 (4) (a), is satisfied.

   c. Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such

certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

d. Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
    i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    ii. The bottom of all openings shall be no higher than one foot above grade.
    iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

e. Manufactured Homes
    i. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
    ii. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites
        a. outside of a manufactured home park or subdivision,
        b. in a new manufactured home park or subdivision,
        c. in an expansion to an existing manufactured home park or subdivision, or
        d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

    iii. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
        a. the lowest floor of the manufactured home is at or above the base flood elevation, or
        b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

f. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
    i. be on the site for fewer than 180 consecutive days,
    ii. be fully licensed and ready for highway use, or

iii. meet the permit requirements of 3.11.03 (4) (a), and the elevation and anchoring requirements for "manufactured homes" in this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

3. Standards for Subdivision Proposals

   a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with 3.11.01 (2), (3), and (4) of this ordinance.
   b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of 3.11.03 (1), 3.11.03 (3); and the provisions of 3.11.04 of this ordinance.
   c. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to 3.11.02 (2) or 3.11.03 (3) (b) of this ordinance.
   d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
   e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

4. Standards for Areas of Shallow Flooding (AO/AH Zones)

   Located within the areas of special flood hazard established 3.11.02 (2) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

   a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

   b. All new construction and substantial improvements of non-residential structures;
      i. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
      ii. together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

   c. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in 3.11.03 (4) (a), are satisfied.

   d. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

5. Floodways

   Floodways - located within areas of special flood hazard established in 3.11.02 (2), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

   a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

   b. If 3.11.04 (5) (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of 3.11.04

   c. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

CHAPTER 3.12 "AP" AQUIFER PROTECTION OVERLAY DISTRICT.

Section 3.12.01. Purpose and Intent.

The Codington County Planning Commission and Board of County Commissioners recognize (1) that residents of Codington County rely on ground water for a safe drinking water supply and (2) that certain land uses in Codington County can contaminate ground water particularly in shallow aquifers.

The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Codington County.

It is the intent to accomplish aquifer protection, as much as possible, by public education and securing public cooperation. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations.

Section 3.12.02. Establishment/Delineation/Regulation of Aquifer Protection Overlay Zones.

Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on the Official Zoning map~~s~~ based upon data prepared by Banner Associates, Brookings, South Dakota. In addition to the Official Zoning Map, the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey created a map entitled First Occurrence of Aquifer Materials Map" dated February 13, 2003. This map will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed.

The Aquifer Protection Overlay District is divided into three zones. The zone of contribution for Zones A and B was mapped by Banner Associates using techniques outlined in the U.S. Environmental Protection Agency publication "Guidelines for Delineation of Wellhead Protection Areas", June, 2000. The shallow/surficial aquifer boundary for Zone C was mapped by the South Dakota Geological Survey.

Section 3.12.03. Zone A – Aquifer Critical Impact Zones.

Zone A, the wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield to the five (5) year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone A.

Section 3.12.03.01. Permitted Uses in Zone A:

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agriculture, excluding all classes of new Concentrated Animal Feeding Operations.

2. Horticulture.

3. Parks, greenways or publicly owned recreational areas.

4. Necessary public utilities/facilities designed so as to prevent contamination of groundwater.

5. All uses permitted in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.03.02. Conditional Use in Zone A.

The following uses are permitted only under the terms of a Conditional Use Permit and must conform to provisions of the underlying zoning district and meet Performance Standards outlined for Aquifer Protection Overlay Zones.

1. Expansion, modification, alteration, or relocaton of existing permitted or conditional uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.

2. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) not to exceed a cumulative total of three hundred (300) animal units.

3. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.03.03. Prohibited Uses in Zone A.

The following uses are expressly prohibited in Zone A:

1. PR Planned Residential District.

2. New concentrated animal feeding operations of all classes after July 31, 2001.

3. Disposal of solid waste except spreading of manure.

4. Outside unenclosed storage of road salt.

5. Disposal of snow containing de-icing chemicals.

6. Processing and storage of PCB contaminated oil.

7. Car washes.

8. Auto service, repair or painting facilities and junk or salvage yards.

9. Disposal of radioactive waste.

10. Graveyards or animal burial sites.

11. Detonation sites, except blasting of rock for farming purposes.

12. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.

13. Public sewer systems and wastewater lagoons.

14. Fall application of nitrogen fertilizer except spreading of manure.

15. Land spreading of petroleum contaminated soil.

16. Land spreading or dumping of waste oil.

17. Industrial process water and waste disposal wells--5W20 type Class V injection wells.

18. Automobile service station disposal wells--5X28 type Class V injection wells.

19. All other facilities, not existing at the time of the adoption of this chapter, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality.

20. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) beyond a cumulative total of three hundred (300) animal units.

21. Earthen storage basins and lagoons.

22. Stockpiling of solid waste.

Section 3.12.04. Zone B - Aquifer Secondary Impact Zones

Zone B, the secondary wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield in the five (5) to ten (10) year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone B.

Section 3.12.04.01. Permitted Uses in Zone B.

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agriculture, excluding all new Concentrated Animal Feeding Operations.

2. Horticulture.

4. Parks, greenways or publicly owned recreational areas.

5. Necessary public utilities/facilities designed so as to prevent contamination of groundwater.

6. All uses permitted in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.04.02. Conditional Uses in Zone B:

The following uses are permitted only under the terms of a Conditional Use Permit and must conform to provisions of the underlying zoning district and meet Performance Standards outlined for Aquifer Protection Overlay Zones.

1. Expansion, modification, alteration, or relocation of existing permitted or conditional uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.

2. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) not to exceed cumulative total of three hundred (300) animal units.

3. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

4. Earthen storage basins and lagoons.

5. Stockpiling of solid waste.

6. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Section 3.12.04.03. Prohibited Uses in Zone B.

The following uses are expressly prohibited in Zone B:

1. PR Planned Residential District.

2. New concentrated animal feeding operations of all classes after June 30, 1997.

3. Disposal of solid waste except spreading of manure.

4. Outside unenclosed storage of road salt.

5. Disposal of snow containing de-icing chemicals;

6. Processing and storage of PCB contaminated oil;

7. Car washes.

8. Auto service, repair or painting facilities and junk or salvage yards.

9. Disposal of radioactive waste.

10. Graveyards or animal burial sites.

11. Detonation sites, except blasting of rock for farming purposes.

12. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.

13. Public sewer systems and wastewater lagoons.

14. Fall application of nitrogen fertilizer except spreading of manure.

15. Land spreading of petroleum contaminated soil.

16. Land spreading or dumping of waste oil.

17. Industrial process water and waste disposal wells--5W20 type Class V injection wells.

18. Automobile service station disposal wells--5X28 type Class V injection wells.

19. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) beyond a cumulative total of three hundred (300) animal units.

20. All other facilities, not existing at the time of the adoption of this chapter, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality.

Section 3.12.05. Zone C -- Aquifer Tertiary Impact Zones.

Zone C is the remainder of the mapped shallow/surficial aquifer in the County not included in Zone A or Zone B. Zone C is being protected because (1) the aquifer is a valuable natural resource for future development, (2) the aquifer provides drinking water supply for individual domestic users, (3) contamination is not justified just because this area is not currently used for public water supply, and (4) contaminants from this area could eventually enter Zone A or Zone B.

Section 3.12.05.01 Permitted Uses in Zone C.

1. All uses permitted in the underlying zoning districts, with the exception of those prohibited, provided that they can meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones.

Section 3.12.05.02 Conditional Uses in Zone C.

1. All Conditional Uses allowed in underlying districts, with the exception of those prohibited, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

2. New Class 4 and expansion of existing Class 4 up to nine hundred ninety-nine (999) animal units (Class 3). The County shall require soil borings to determine impermeable material between land surface and the aquifer.

3. Earthen storage basins and lagoons.

Section 3.12.05.03 Prohibited Uses in Zone C.

The following uses are expressly prohibited in Zone C:

1. Fall application of nitrogen fertilizer on lands before October 20th.

2. Land spreading of petroleum contaminated soil.

3. Land spreading or dumping of waste oil.

4. Automobile service station disposal wells--5X28 type Class V injection wells.

5. New Concentrated Animal Feeding Operations of Class 1, Class 2, and Class 3 or expansions of existing Class 4 concentrated animal feeding operations which cannot meet performance standards.

Section 3.12.06 Performance Standards for Aquifer Protection Overlay Zones.

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

1. New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the South Dakota Department of Environment and Natural Resources.

2. Open liquid waste ponds containing any solid or liquid material or waste will not be permitted without a secondary containment system except for community wastewater lagoons.

3. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.

4. Any commercial or industrial facility, not addressed by #2 or #3 above, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste, except for spreading of manure, in excess of one thousand (1,000) pounds and/or one hundred (100) gallons which has the potential to contaminate groundwater must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and accessible sumps.

5. Discharge of industrial processed water on site is prohibited without Board of Adjustment approval.

6. Commercial auto service, repair or painting facilities and junk or salvage yards shall meet all State and Federal standards for storage, handling and disposal of all other potentially hazardous waste materials.

7. Any facility involving collection, handling, manufacture, use, storage, transfer or disposal of hazardous materials must prepare and have on file in the County Zoning Office an acceptable contingency plan for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire, other natural catastrophes or equipment failure occur:

    a. For flood control, all underground facilities shall include a monitoring system and a secondary standpipe above the one hundred (100)-year frequency flood level. For above ground facilities, an impervious dike, above the one hundred (100)-year year flood level and capable of containing one hundred twenty percent (120%) of the largest storage volume, will be provided with an overflow recovery catchment area (sump).

    b. For fire control, plans shall include but not be limited to a safe fire fighting procedure, a fire retardant system and provision for dealing safely with both health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are overhead and buried electrical lines, pipes, other buried objects and other hazardous liquids, chemicals or open flames in the immediate vicinity.

    c. For equipment failures, plans shall include but not be limited to:

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

        ii. Above ground level, provisions for monitoring, replacement, repair and cleanup of primary containment systems

    d. For other natural or man-caused disasters, the owner and/or operator shall report all incidents involving liquid or chemical material which may endanger health and/or safety of disaster personnel and/or the general public.

    e. Agricultural operations are exempted from performance standard #7 unless chemicals are stored which are on the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) extremely hazardous substance list in the quantities exceeding the threshold planning quantity at any one time.

    d. The County Zoning Office and DENR shall be informed within twenty-four (24) hours of all leaks and spills of materials that might potentially contaminate groundwater.

8. Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:04:67-70.

Section 3.12.07 Grant of Permit, Alteration of Use.

Before a permit is granted, the County Zoning Officer must examine an application and determine that the proposed use, activity or development meets the provisions of this ordinance.

When securing a use permit, the owner/developer agrees to make future improvements which may become necessary to prevent contamination of shallow/surficial aquifers and the owner/developer must allow County personnel to inspect any improvements to verify they meet the performance standards.

Whenever any person has an existing use, activity or development and thereafter desires alteration or expansion of the authorized use, such persons shall apply for a permit. The owner may appeal a County Zoning Officer's decision to modify or deny a requested permit to the Board of Adjustment.

Any lawful use in existence on the effective date of this ordinance shall be permitted to continue provided it can be shown such use does not threaten public health and safety by potential contamination of water in the shallow/surficial aquifer.

Section 3.12.07.01. Exceptions.

1. Storage of liquids, chemicals and fertilizers used in agricultural operations during planting and crop cultivation are exempt from the requirements of this ordinance March 1 to October 1. However, Best Management Practices are encouraged, particularly in Zone A and Zone B.

2. Tanks used for chemigation are exempt from secondary containment regulations but secondary containment is encouraged.

3. Storage of liquid or dry fertilizer in amounts equal to or less than one thousand (1,000) pounds or one hundred (100) gallons, stored indoors by each farm operator is exempt from the requirements of this ordinance.

Section 3.12.08. Limitation Of County Liability.

Nothing in this ordinance shall be construed to imply that Codington County, by issuing a permit, has accepted any of an owner's/developer's liability if a permitted development contaminates water in shallow/surficial aquifers.

Section 3.12.09. Underlying Zones.

Underlying zoning restrictions apply along with restrictions set forth in the Aquifer Protection Overlay District.

Section 3.12.10. Saving Clause.

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.

ARTICLE IV
ADMINISTRATION

CHAPTER 4.01. GENERAL.

Section 4.01.01. Permits Required.

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

2. It shall be unlawful to commence the excavation for the construction of any building or any accessory building without a permit. A permit is also required for any filling, grading, lagooning, or dredging which is related to site preparation for future construction.

Section 4.01.02. Applications.

1. All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Officer, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; existing or proposed water, sewer, electrical facilities; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this ordinance. Such plans and data accompanying the permit shall be final and conclusive. Deviations shall be deemed a violation of this Ordinance, and punishable as provided in 1.02.03.

Section 4.01.03. Building/Use Permit.

1. Issuance of a Building/Use Permit. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other regulations of the County then in force, the Zoning Officer shall issue a building/use permit for such excavation or construction. If a building/use permit is refused, the Zoning Officer shall provide the applicant notice, verbally or by mail, of such refusal with the cause for denial. The Zoning Officer shall grant or deny the permit within a reasonable time from the date the application is submitted.

2. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this Ordinance. If the work described in any building permit has not been substantially completed within six (6) months of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Officer and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building/use permit has been issued. If substantial progress has been made within six (6) months from the issuance of the permit but has not been completed, the Zoning Officer may extend the building/use permit and additional six (6) months.

Section 4.01.04. Permits Displayed.

1. Permits Displayed. It shall be unlawful to commence work until the building permit is displayed in a conspicuous place visible from public right-of-way. The permit shall be placed upon the premises at all times from the beginning until the completion of such construction, alteration, repair, occupancy or change of use.

Section 4.01.05. Fees.

1. The Board of County Commissioners shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance, The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Board of County Commissioners.

2. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

CHAPTER 4.02. ZONING OFFICER.

Section 4.02.01. Zoning Officer.

1. The provisions of this Ordinance shall be administered and enforced by a County Zoning Officer appointed by the Board of County Commissioners, who shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

Section 4.02.02. Duties.

The powers and duties of the Zoning Officer shall be as follows:

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

2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.

3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.

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

5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.

6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.

7. Prepare documents, easements, letters of assurance, waivers, etc. as required by this Ordinance, or at the direction of the Codington County Planning Commission and/or the Codington County Board of Adjustment and/or Codington County Commissioners.

8. Provide public information relative to all matters arising out of this Ordinance.

9. Forward to the Planning Commission all plats and/or applications for amendments to this Ordinance.

10. Forward to the Board of Adjustment, applications for appeals, conditional uses, variances, or other matters on which the Board of Adjustment is required to pass under this ordinance.

11. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning Commission.

12. The Zoning Officer shall receive applications required under this ordinance, specifically but not limited to Building Permits, Conditional Uses, Variances, and Zoning Amendments.

    a. For building permits, the Zoning Officer shall approve the application only in accordance with the provisions of the County's Zoning Ordinance.

    b. For Conditional Uses and Variances, the Zoning Officer shall review the application, and shall make recommendations regarding said application to the Board of Adjustment.

    c. For Zoning Amendments, the Zoning Officer shall review the application, and shall make recommendations regarding said application to the Planning Commission and Board of County Commissioners.

Section 4.02.03. Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this regulation, or whenever the Zoning Officer or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises a regulation violation, the Zoning Officer or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Zoning Officer by this ordinance, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Zoning Officer or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Zoning Officer or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Zoning Officer or an authorized representative for the purpose of inspection and examination pursuant to this regulation.

Section 4.02.04. Stop Order

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

Section 4.02.05. Occupancy Violation.

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

CHAPTER 4.03. PLANNING COMMISSION.

Section 4.03.01. Establishment.

1. The Board of County Commissioners shall appoint a Planning Commission of seven (7) members, at least one (1) member of which shall be a member of the Board of County Commissioners.

Section 4.03.02. Term of Office.

1. The term of each of the appointed members of the County Planning Commission shall be for four (4) years. The terms shall be varied so no more than one-third of terms shall expire in the same year. Any appointed member of the county Planning Commission may be removed for cause, after hearing prior to the expiration of the term by a majority vote of the elected members of the Board of County Commissioners. Zoning Officers of the County may be appointed as ex-officio members of the Commission.

Section 4.03.03. Meetings of the Planning Commission

1. The Planning Commission shall meet at such times as may be necessary to accomplish the purposes of their duties, but in no event shall they meet less than once every three (3) months.

Section 4.03.04. PerDiem and Expenses of Commission

1. Per diem and expenses of the County Planning Commission shall be established by the Board of County Commissioners and paid by the County.

CHAPTER 4.04. BOARD OF ADJUSTMENT.

Section 4.04.01 Establishment

Within Codington County outside of incorporated municipalities, the power and jurisdiction related to this article shall be executed by the Board of Adjustment.

1. The Board of Codington County Commissioners shall appoint the Codington County Planning Commission and two (2) alternates to act as the Board of Adjustment. If a Planning Commissioner acting as a Board of Adjustment member is unable to attend a meeting, the first alternate, or second alternate, in turn, shall serve in the member's place. Alternates may be appointed for a term of three (3) years.

Section 4.04.02. Procedures for Meetings.

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

2. The Board of Adjustment shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Officer and shall be public record. The Board of Adjustment shall keep record in the minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact.

Section 4.04.03. Powers and Duties of the Board.

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

    a. Administrative Review. To hear and decide where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Officer or other administrative officers in the carrying out or enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map.

    b. Conditional Uses. To hear and decide applications for conditional uses that are specified in this Ordinance and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.

    c. Variance. To hear and decide applications for variance from the terms of this Ordinance because of unnecessary hardship and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

Section 4.04.04. Power and Jurisdiction Relating to Administrative Review.

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

Section 4.04.05. Board of Adjustment has Powers of Administrative Officer on Appeals: Reversing Decision of Zoning Officer.

1. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Officer from whom the appeal is taken.

2. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment (five (5) votes) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

Section 4.04.06. Appeals, Record of Appeal, Hearing and Stays

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Officer, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Officer.

2. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the zoning officer. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days.

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

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

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

Section 4.04.07. Duties Of Zoning Officer, Board Of County Commissioners, and Courts On Matters Of Appeal.

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Officer, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Officer, and that recourse from the decision of the Board of Adjustment shall be to the courts as provided by the laws of the State of South Dakota.

Section 4.04.08. Appeals to a Court of Record.

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board, or bureau of the county, may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Adjustment.

CHAPTER 4.05. PROCEDURES FOR CONDITIONAL USES, VARIANCES, AND ZONING AMENDMENTS.

Section 4.05.01. Powers and Jurisdiction Relating to Conditional Uses.

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

1. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested.

2. The Zoning Officer shall require the applicant for a conditional use permit to notify adjacent property owners by certified or registered mail, at the cost of the applicant, of the conditional use permit or in lieu of this, at the discretion of the Zoning Officer, obtain written consent from adjacent landowners.

3. Notice of hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.

4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.

6. Before granting any conditional use, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangements have been made concerning the following, where applicable:

    a. Entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

    b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare or other effects of the conditional use on adjoining properties and properties generally in the district.

c. Utilities refuse and service areas, with reference to locations, availability, and compatibility.

d. Screening and buffering with reference to type, dimensions and character.

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

f. Required yards and other open space.

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

7. In granting any conditional use, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation

8. The concurring vote of five (5) members of the Board of Adjustment is required to pass any application for a Conditional Use.

9. A conditional use permit shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Board of Adjustment and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use may be granted by the Board of Adjustment.

Section 4.05.02. Powers and Jurisdiction Relating to Variances.

The Board of Adjustment shall have the power, where, by reason of exception, narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of this Ordinance. A variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted, indicating the section of this Ordinance under which the variance is sought and stating the grounds on which it is requested.

2. The Zoning Officer may require the applicant for a variance to notify adjacent property owners by certified or registered mail, at the expense of the applicant, of the variance request or in lieu of this, at the discretion of the Zoning Officer, obtain written consent from adjacent landowners.

3. Notice of hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.

4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest. A variance from the terms of this ordinance shall not be granted if the following occur:

    a. There are no special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are applicable to other land, structures, or buildings in the same district;

    b. The literal interpretation of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

    c. The special conditions and circumstances do result from the actions of the applicant;

    d. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.

    e. The granting the variance request would confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

    f. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation.

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

8. The concurring vote of five (5) members of the Board of Adjustment is required to pass any application for a variance.

Section 4.05.03. Zoning Amendments.

Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the Planning Commission, as provided herein, the Board of County Commissioners may change zoning district boundaries, use groups, or the regulations established by this ordinance. A proposed change of zoning district boundaries or regulations may be initiated by the Board of County Commissioners, the Planning Commission, or by application of one (1) or more of the owners of property within the area requested to be rezoned. Initiated petitions which create amendments to this ordinance are required to submit signatures of thirty (30) percent of the landowners in the zoning district or districts requesting change. Unless otherwise provided for in these regulations, any change in these regulations, shall require Board of County Commissioners approval of an ordinance describing said changes. The Board of County Commissioners may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance amendment.

The following procedure for requesting a Zoning Amendment or Zoning District Boundary Change shall be followed:

1. The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Zoning Officer. Completed applications shall be returned to the Zoning Officer for review. To be considered by the Planning Commission and Board of County Commissioners, the application form shall be completed and shall be accompanied by the following items:

    a. Any required attachments and fees, including Registered or Certified Mail.

    b. Any additional information, as requested by the Zoning Officer, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.

    c. The Zoning Officer shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.

    d. The Zoning Officer shall set the date, time, and place for public hearings to be held by the Planning Commission and Board of County Commissioners. The Zoning Officer shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to each board's (Planning and Zoning, Board of County Commissioners) public hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Officer shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.

    e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

    f. The Planning Commission shall either recommend or denial of the amendment to the Board of County Commissioners.

g. Adoption. Amendments to the zoning ordinance may be adopted by a majority vote unless the amendment has been denied by the Planning Commission in which case a two-thirds (2/3) vote of the Board of Codington County Commissioners is required.

h. When the Board of County Commissioners approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds (4 votes) of the Board of County Commissioners.

   i. Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within 250 feet of the area affected by the amendment.

i. After passage the Ordinance Amendment shall take effect on the 20th day after its publication in an official newspaper of the County.

Section 4.05.04. Reapplication.

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

ARTICLE V
GENERAL REQUIREMENTS

Pursuant to the purpose of this Regulation are certain general requirements that are not provided for under Article III District Regulations. These requirements are set forth under this Section.

CHAPTER 5.01. VISION CLEARANCE ON CORNER LOTS.

On any corner lot in any zoning district, no planting, obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is one hundred (100) feet distance from the point of intersection (Clear View Triangle). Exception: In the Lake Park District, Town District, and Planned Residential District, the Clear View Triangle shall be formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet distance from the point of intersection.

CHAPTER 5.02. REFUSE.

In all Zoning Districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a completely enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash. Normal farming operations excluded.

CHAPTER 5.03. UNLICENSED VEHICLES.

Vehicles not in use and without a current license may not be kept in any uncovered area other than a designated junk or salvage yard or designated collection site.

CHAPTER 5.04. SALE OF PARKING AREAS.

Off-street parking areas required under Article III District Regulations, as part of lot requirements may not be separated from the property of which it was an original part.

CHAPTER 5.05. SCREENING.

Where any commercial or industrial use is adjacent to any residential use, that use (building, parking or storage) shall be appropriately screened from the residential use by a fence or planting, approved by the Board of Adjustment, except where such fence or planting may be in conflict with vision clearance.

CHAPTER 5.06. MOVED IN BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the County unless and until a permit to do so has been obtained from the Zoning Officer. No permit shall be issued until the following requirements are met.

    a. The fee for said permit as prescribed in Section 4.01.05, shall have been paid.

    b. That the work is to be completed within six (6) months after the permit has been issued by the Zoning Officer.

c. Must have signatures, by petition, of sixty-six percent (66%) of the adjoining landowners, including land directly across a road or highway, and fifty percent 50%) of landowners within two hundred (200) feet. EXCEPTION: A new residence to be used for first occupancy, constructed off the property and moved to location, shall not require adjoining landowners' approval.

CHAPTER 5.07. MINIMUM WATER AND SEWER REQUIREMENTS.

A water and sewer system cannot be approved until it meets the following standards:

1. All subsurface absorption systems shall be at least one hundred (100) feet from any water supply well, eighty (80) feet from any lake, stream, or water course, and twenty-five (25) feet from property lines.

2. The bottom of the drain area or tile field should be at least four (4) feet above the maximum high ground water level and five (5) feet above rock or impervious soil strata and not more than five (5) feet below ground surface.

3. All structures used for human habitation or commercial or industrial use must be connected to a sewage disposal system which meets South Dakota Department of Environment and Natural Resources Administrative Rules and be approved by the Zoning Officer. If a public sewer is available, all such structures must be connected to said public sewer.

CHAPTER 5.08. SHELTERBELT SETBACK REQUIREMENTS.

1. A shelterbelt, consisting of one (1) or more rows, shall not be established within one hundred fifty (150) feet of a public road right-of-way on the north and west sides of roads and not within one hundred (100) feet of a public road right-of-way the south and east sides of roads. Exception: A shelterbelt, consisting of one (1) or more rows, may be established on the north and west sides of a road with the north or west windward row to be located at least one hundred fifty (150) feet from a public road right-of-way and the north or west non-windward row to be located no closer than seventy-five (75) feet from a public road right-of-way; or a shelterbelt, consisting of one (1) or more rows, may be established on the south and east sides of a road with the south and east windward row to be located at least one hundred (100) feet from a public road right-of-way and the south and east non-windward row to be located no closer than fifty (50) feet from a public road right-of-way if there is an existing shelterbelt within one-half (1/2) mile and parallel to the north or west of the proposed shelterbelt. The exception(s) is also subject to 5.08.4. The windward row of trees shall consist of shrubbery or tree species, as determined by the State Urban Forester, which aid in the containment of snow. Shelterbelts at right angles to roads shall have a minimum turnaround of fifty (50) feet measured from the road right-of-way. Shelterbelts shall not be established within one hundred fifty (150) feet of adjoining property lines without written permission of adjoining property owners.

2. Shade Trees, ornamental trees or shrubs generally used in front yards for landscaping and spaced further than fifteen (15) feet apart and further do not extend lineally for a distance of over one hundred fifty (150), are not considered shelterbelts and are allowed in a controlled area. The controlled area is defined as the area within one hundred (100) feet of homes or farm buildings, but not closer to the right-of-way than fifty (50) feet. Except for the following, plantings within the controlled area are exempt from this regulation. Four (4) or more trees planted in a row are not allowed with the controlled area. Deciduous trees which are spotted

or staggered within the controlled area can be no closer than twenty (20) feet. Conifer trees which are spotted or staggered within the controlled area can be no closer than twenty-five (25) feet. The distance between trees shall be determined by measuring distance between tree trunks.

3. The shelterbelts setback requirements (paragraph 1) also apply to volunteer trees that the landowner allows to grow.

4. A recommendation from the County Highway Superintendent, Township and/or State Department of Transportation is required prior to the issuance of any variance of the shelterbelt setback from any respective County, Township or State/Federal public right-of-way.

CHAPTER 5.09. ANIMAL UNITS ON SMALL ACREAGES.

On parcels of land of ten (10) acres or less, a maximum of one (1) animal unit per acre will be allowed. Designated concentrated animal feeding operations excluded.

CHAPTER 5.10. MANUFACTURED HOME PARKS.

It shall be unlawful for any person to place or maintain a manufactured home park in the unincorporated area of Codington County unless said court is connected to an approved public water and sewer system. **Exception**: A manufactured home park existing prior to June 18, 1974 may be allowed in a commercial zoning district subject to meeting the following requirements:

Section 5.10.01. Manufactured Home Parks Minimum Standards.

1. The existing manufactured home park shall provide a map showing:

    a. Location and topography of the manufactured home park, including adjacent proximity to Federal and State highways, and County, Township, and City roads/streets.
    b. Property lines and square footage of the proposed park.
    c. Location and dimension of all manufactured home rental lots.
    d. Location of all structures on said manufactured home rental lots with special attention to setback from streets and other structures.
    e. Age of all manufactured homes on said manufactured home rental lots.
    f. Location and dimensions of all easements and rights-of-way.
    g. Proposed general layout, including parking and recreation areas.
    h. General street and pedestrian walkway plan.
    i. General utility, water, and sewer plan.

2. The existing manufactured home park shall provide a mitigation plan addressing the following:

    a. Streets - Each manufactured home lot shall abut or face a public or private roadway or street. The street shall be in good repair and the manufactured home park owner shall present a plan on how and when the roads are to be maintained.

b. Lot area - Each lot provided for the occupancy of a single manufactured home unit shall be not less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.

c. Density – No existing manufactured home park shall be permitted to increase the density of manufactured home lots existing at the time of issuance of conditional use permit.

d. Spacing and Yard Requirements - All subsequent manufactured housing units positioned on defined rental lots will comply with the following:

   i. Front Yard - All manufactured homes shall be located at least twenty (20) feet from any road or street. The distance will be measured from the wall of the structure to the street or roadway at the closest point.
   ii. Side and Rear Yards - All manufactured homes shall have minimum side yards of seven (7) feet and a minimum rear yard of ten (10) feet.
   iii. Exceptions to Minimum Yard Requirements - A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.
   A deck may project into a required side or rear yard provided it is located no closer than four (4) feet to any other structures.
   An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.
   Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or right-of-way.

e. Parking -Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants.

f. Refuse Collection - One refuse collection station shall be provided, with a minimum of one (1) two-yard dumpster situated on a concrete pad, for each twelve (12) families or fractions thereof, conveniently located to serve tenants, not less than one hundred (100) feet from any manufactured home unit served, and to be conveniently located for collection.

g. On-Site Management - Each manufactured home park shall provide management by the owner or his representative at all times to supervise the management, repairs, maintenance and janitorial work connected therewith and to see that all provisions of this Chapter are complied with.

h. Tie Down Requirements - All manufactured homes placed after the adoption of this ordinance, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Zoning Officer, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the TR-75, issued June 1972 by the U.S. Department of Defense.

i. Maximum Age Limitation - No manufactured home placed within a manufactured home park may exceed fifteen (15) years from the date of manufacture. The Board of Adjustment may grant a variance from the maximum age requirement subject to the applicant meeting the following requirements:

   i. The applicant shall provide a photograph of the manufactured home's exterior and interior.
   ii. That it shall have been shown to the satisfaction of the Zoning Officer that the said manufactured home complies with the recognized gas, plumbing, electrical, and construction standards.
   iii. A majority of adjoining residences (excluding streets) do no object to the placement of the manufactured home.

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

k. Expansion - Existing manufactured home parks may not be extended or expanded into adjoining property.

l. Building/Moved-in Building Permit Required. A building permit is required whenever a manufactured home is moved into or removed from the manufactured home park, or if when an accessory structure is to be constructed.

m. Addresses – Each manufactured home shall have an address number affixed to the manufactured home. Required signage shall consist of a green reflective sign with four (4) inch silver or white reflective numbers.

n. Street Lighting – On all private streets, street light will be provided per approved site plan.

o. Septic Tank/Sanitary Sewer – Existing manufactured home park shall meet the requirements of South Dakota Codified Law and associated administrative rules regarding on-site septic tanks and drainage systems. Existing manufactured home parks shall provide documentation, as requested, from the South Dakota Department of Environment and Natural Resources that the septic system identified in the approved site plan meets minimum standards. If said system fails to meet minimum State standards, said system will be abandoned and replaced with connection to a public sanitary sewerage system or redesigned to meet State standards only after receiving a conditional use permit from the Board of Adjustment. In the event a public central sanitary sewerage system is within two hundred fifty (250) feet of the perimeter of the manufactured home park, said manufactured home park shall request connection to said public central sanitary sewerage system. (Ordinance 39)

CHAPTER 5.11. MANUFACTURED HOME REGULATIONS.

1. A manufactured home is an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used for continuous year-round occupancy as a single dwelling. For the purpose of this Ordinance, manufactured homes will be regulated by types. Two (2) types of homes are defined under these regulations.

   a. Type A manufactured home shall:

i. Have more than 1,100 square feet of occupied space in a double-section or larger multi-section unit.

ii. Be anchored to a permanent foundation (permanent perimeter enclosure) and permanent footing.

iii. The age of the manufactured house may not exceed five (5) years from the date of manufacture.

iv. Have a gabled roof with a pitch of at least 2/12 feet.

v. Have siding material of a type customarily used on site-constructed residences.

vi. Have roofing material of a type customarily used on site-constructed residences.

b. Type B manufactured home shall:

i. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit. Minimum width for a Type B mobile home is fourteen (14) feet.

ii. Utilize a perimeter enclosure of metal, vinyl, wood or styrofoam in accordance with manufacturer's specifications.

iii. The age of the manufactured house may not exceed fifteen (15) years from the date of manufacture.

iv. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the ANSI/NFPA 501A Standards.

v. Have siding material of a type customarily used on site-constructed residences.

vi. Have roofing material of a type customarily used on site-constructed residences.

vii. Be placed onto a support system, in accordance with approved installation standards, as specified in subsection (2), Installation Standards.

2. Installation Standards.

a. Support System.

i. All HUD-Code manufactured homes of the Type A classification shall be installed with load bearing foundations in conformance with the manufacturer’s installation specifications.

ii. Type B manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANSI/NFPA 501A installation standards.

b. Foundation/Skirting

i. Those manufactured homes designated in this Ordinance (Type A), as requiring a permanent foundation and permanent perimeter enclosure must have footings and crawl space or basement walls.

a. A crawl space must be constructed of concrete or masonry block grouted solid with one (1) number four or (1/2") horizontal rebar, continuous tied to number four or (1/2") rebar verticals placed in the footing four feet (4') on center.

b. The foundation shall be (a) an approved wood basement constructed of 2 x 6 frame work and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete or concrete block.

c. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade and the bottom of the footing to be below the frost line.

d. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

ii. All manufactured homes without a permanent perimeter enclosure shall have an approved foundation/siding/skirting enclosing the entire perimeter of the home.

3. Nonconforming Homes.

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

4. Replacement of Nonconforming Homes.

Thereafter, upon application to the Zoning Officer and subsequent approval thereof, a manufactured home, deemed a legal nonconforming use, may be replaced by a manufactured home, provided the replacement is of an equal or higher type. Equal or higher type means a Type B manufactured home could be replaced with a Type A or B manufactured home; a Type A manufactured home could be replaced with another Type A manufactured home.

5. Structural Alteration.

Due to its integral design, any structural alteration or modification of a manufactured or mobile home after it is placed on the site must be approved by the Zoning Officer.

6. Variance from Maximum Age Requirement

Type A and B manufactured homes may receive a variance from the maximum age requirement. The Board of Adjustment may grant a variance if the manufactured home meets the following requirements:

a. The applicant shall provide a photograph of the manufactured home's exterior and interior.

b. That it shall have been shown to the satisfaction of the Zoning Officer that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of Codington County.

c. That the applicant shall obtain the written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of sixty-six (66) percent of the property owners within one hundred fifty (150) feet (excluding streets and alleys) of said proposed location has been received.

CHAPTER 5.12. EXTENDED HOME OCCUPATION.

There are significant differences between home occupations conducted in residential dwellings on small tracts and agricultural-based extended home occupations. The nature of resources available for use, the benefits and disadvantages created by home occupations, and the problems generated necessitate a distinction between home occupations conducted in residential dwellings on small tracts and agricultural-based extended home occupations.

1. For the purposes of this section, provided all requirements are met, the following shall be considered extended home occupations:

   a. Welding repair conducted in a safe manner.

   b. Veterinarian's office.

   c. Blacksmith.

   d. Service office.

   e. Others which, in the opinion of the Board of Adjustment would not conflict with adjoining land uses.

2. Performance Standards

   a. Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.

   b. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign, not to exceed sixteen (16) square feet in area, non-illuminated.

   c. Off premise signage for extended home occupations shall be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "Blue Signs". These signs, with SDDOT approval, may be located adjacent to State and Federal Highways.

   d. The only retail sales allowed shall consist of the sale of commodities/products prepared on the premises in connection with such occupation or activity. Exception: Seed Sales.

e. There shall be no outdoor storage of materials, vehicles, etc. related to the extended home occupation.

f. Extended home occupations should be agriculturally related and be conducted in an accessory building.

g. No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.

h. No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

CHAPTER 5.13. FENCES.

Section 5.13.01. Purpose.

The regulation of fences is intended to protect the public safety and welfare, provide privacy, buffer noise, and allow adequate air, light and vision.

Section 5.13.02. Permit required.

1. Except for the Agricultural District, all fences, walls and hedges shall require a building permit. Customary farm and animal fencing is exempt from this Chapter.

Section 5.13.03. Location/Construction Requirements.

1. Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard. Except fences, walls, and hedges which are more than thirty (30) percent solid shall not be located within fifty (50) feet of an intersection, measuring along the property lines and connecting these two points by a straight line. Further, the fence, wall, or hedge shall not be constructed within twenty-five (25) feet of a public right-of-way or private road. Fences, walls and hedges shall be set back twenty (20) feet from high water mark.

2. Fences, with a maximum height of not more than eighty inches (80) inches, may be erected on any part of a lot other than in the required front yard which shall be limited to a height of forty-eight (48) inches.

3. The County does not provide surveying services. The property owner is responsible for locating property lines.

4. Fences may be built no closer than one (1) foot up to the property line, not to include the public right-of-way. Fences constructed within an identified easement face the potential of removal in the event of necessary work to be conducted within the easement. Replacement of the removed fence is the responsibility of the owner of said fence.

5. The “finished side” of the fence shall face neighboring properties or the road.

6. Approved fencing materials include stone, brick, wood, vinyl, and chain link. No barbed wire fences shall be allowed in the Lake Park and Planned Residential Districts.

7. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.

8. Fences can be built on the property line when the fence is shared between property owners.

CHAPTER 5.14. ACCESSORY BUILDINGS.

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.

2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.

3. No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five (5) feet of any other building.

4. No accessory building may be used for residential dwelling purposes at any time.

5. Agricultural District.

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

6. Commercial and Industrial Districts.

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

7. Lake Park and Planned Residential Districts.

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

Permitted Accessory Uses: LP and PR Districts

Principal Use	Permitted Accessory Uses
Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers	1. Private garages. a. Attached and unattached garages shall be limited to maximum dimensions per 3.04.07.3.g and conform to the design of the house. b. Attached garages shall be limited to maximum sidewalls of ten (10) feet; and a maximum of 4/12 roof pitch or to conform to the design of the house. c. Unattached garages shall be limited to maximum sidewalls of twelve and one-half (12 ½) feet; and a maximum of 4/12 roof pitch or to conform to the design of the house. 2. Buildings or structures for customary residential storage purposes not over ten (10) feet in height and not exceeding one hundred fifty (150) square feet in gross floor area. 3. Readily moveable sports, recreation, or outdoor cooking equipment. 4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools, barbeque pits, and similar improvements provided a site plan for such facility is approved. 5. Home occupations but only as defined herein. 6. Non-commercial greenhouses provided that greenhouses over one hundred (100) square feet in floor area must have an approved site plan. 7. Off-street parking and storage of vehicles.

Principal Use	Permitted Accessory Uses
Churches, Convents and Monasteries	1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.
All conditional uses	1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use.
All other items	1. No accessory uses permitted.

CHAPTER 5.15 SIGNS.

Section 5.15.01 On-premise and Off-premise Signs

1. Prohibited signs:

    a. No sign shall be erected or maintained which creates a hazard due to collapse, fire, collision, decay, or abandonment; or creates traffic hazards, by either:

        i. Confusing or distracting motorists; or

        ii. Impairing the driver's ability to see pedestrians, obstacles or other vehicles, or

        iii. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or

        iv. Creates a nuisance to persons using a public right-of-way; or

v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement

b. Any vehicle or trailer parking on public right-of-way, public property or private property so as to be visible from the public right-of-way and which displays an advertising message, unless said vehicle is used in the regular course of a business.

2. Signs shall be permitted in zoning districts per Article III, subject to the following provisions:

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

b. Signs shall not project over public property.

c. Signs shall not be erected adjacent to a corner of two (2) intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. See Chapter 5.01.

d. Each sign – size, lighting, and location - in the County shall at least meet the standards established by the South Dakota Department of Transportation.

e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Zoning Officer and the said Official grants a permit therefore.

f. The Zoning Officer shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with codes relating to outdoor advertising.

3. On-premise Signs: Each sign erected as an on-premise sign in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:

a. Unless otherwise specified herein, each sign shall have a maximum surface area of eighty (80) square feet and shall observe all yard and height requirements of the district in which it is located.

b. No on-premise sign may be converted to an off-premise sign.

4. Off-premise Signs: Off-premise signs erected in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:

a. Each sign shall have a maximum surface area of three hundred (300) square feet.

b. The sign structure or sign shall have a maximum height of thirty (30) feet. Height of sign is the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground in a straight line directly below, measured from a point equidistant from the sides or edges of the sign.

c. Stacked signs (two or more signs stacked vertically on a single sign structure are prohibited.

d. Each sign shall not be closer than three hundred (300) feet from any street intersection and five hundred (500) feet from another permitted Off-premise sign on the same side of the street or road.

e. Each sign shall not be closer than ten (10) feet from any street right-of-way.

f. Each sign shall not be closer than two hundred fifty (250) feet from adjoining property lines.

CHAPTER 5.16. STRUCTURES TO HAVE ACCESS.

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

CHAPTER 5.17. YARDS.

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

Section 5.17.01. Yards, Reduction in Size.

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

Section 5.17.02. Additional Yard Requirements.

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

1. A corner lot must have a front yard on both streets

2. On developed property, in the LP-Lake Park District and PR-Planned Residential District, fronting on one side of the street between two streets where one or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line..

3. In the LP and PR Districts, on through lots and reversed frontage lots, a front yard must be provided on both streets.

4. In the LP and PR Districts, required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

Section 5.17.03. Exceptions to Yard Requirements.

The following exceptions may be made to the yard requirements in the LP and PRL Districts:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.

2. In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.

3. An accessory building may be located in a rear yard but not occupy more than 30 percent of a rear yard.

4. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

CHAPTER 5.18. PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS.

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes as defined herein.

CHAPTER 5.19. UTILITY EASEMENTS.

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

CHAPTER 5.20. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

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

CHAPTER 5.21. CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS.

Section 5.21.01 Intent

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

It is the intention of the Board of Adjustment in the enforcement of this ordinance that when an operator of an existing Concentrated Animal Feeding Operation applies for a permit to expand to another class level, the standards that apply to the expansion will not be applied to existing structures that were built in compliance with accepted industry standards in existence at the

time of the construction of such facilities.

Section 5.21.02. Animal Units.

Table 5.21.1 shows Animal species and number of a species required to equal 500, 1,000 and 2,000 animal units. Note that these figures relate to inventory rather than annual production. Other animal species equivalents which are not listed will be based on species' waste production.

TABLE 5.21.1
EQUIVALENT NUMBER OF A SPECIES TO EQUAL:

ANIMAL SPECIES	500 AU	1,000 AU	2,000 AU	ANIMAL UNIT EQUIVALENT SPECIES/AU
Feeder or Slaughter Cattle	500 hd	1,000 hd	2,000 hd	1.0
Mature Dairy Cattle	350 hd	700 hd	1,400 hd	1.43
Calves (up to 400 pounds)	**1250 hd**	**2,500 hd**	**5,000 hd**	**0.4**
Finisher Swine (over 55 lbs)	1,250 hd	2,500 hd	5,000 hd	0.4
Nursery Swine (less than 55 lbs)	5,000 hd	10,000 hd	20,000 hd	0.1
Farrow-to-Finish (sows)	135 hd	270 hd	540 hd	3.7
Swine Production Unit (Sows Breeding, Gestating & Farrowing)	1,060 hd	2,130 hd	4,260 hd	0.47
Horses	250 hd	500 hd	1,000 hd	2.0
Sheep	5,000 hd	10,000 hd	20,000 hd	0.1
Turkeys	27,750 hd	55,000 hd	110,000 hd	0.018
Laying Hens and Broilers (continuous overflow watering in facility)	50,000 hd	100,000 hd	200,000 hd	0.01
Laying Hens and Broilers (liquid handling system in confinement facility)	15,150 hd	30,000 hd	60,000 hd	0.033
Ducks	2,500 hd	5,000 hd	10,000 hd	0.2

Section 5.21.03 Classes of Concentrated Animal Feeding Operations

A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (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 operation 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.

For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into the following classes:

ANIMAL UNITS

Class 1	2,000 or more	
Class 2	1,000 to 1,999	
Class 3	500 to 999	
Class 4	50 to 499	(Potential water pollution hazard)
Class 5	50 to 499	(No pollution hazard)

Section 5.21.04. Concentrated Animal Feeding Operation Permit Requirements.

Owners of Class 1, Class 2, Class 3, and Class 4 Concentrated Animal Feeding Operations are required to complete a permit application whenever any of the following occur:

1. A new Concentrated Animal Feeding Operation is proposed where one does not exist.

2. An expansion is proposed beyond what a current permit allows.

3. A cumulative expansion by three hundred (300) animal units, after July 1, 1997, of existing concentrated animal feeding operation that does not have a permit.

4. A change in ownership or transfer of control.

5. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.

6. A signed complaint has been received and/or documented by the County Zoning Officer or South Dakota Department of Environment and Natural Resources and after inspection reveals that the Concentrated Animal Feeding Operation is in violation of County or State regulations.

Section 5.21.05. Concentrated Animal Feeding Operation Control Requirements.

1. No Significant Contribution of Pollution

In general, no Concentrated Animal Feeding Operation shall be constructed, located, or operated so as to create a significant contribution of pollution.

2. State General Permit

Classes 1 and 2 Concentrated Animal Feeding Operations shall obtain a State General Permit pertaining to the animal species of the Concentrated Animal Feeding Operation. A County permit may be approved conditioned on receiving a State permit.

Classes 3 and 4 Concentrated Animal Feeding Operations will be required to obtain a State General Permit if the following occur:

a. If an earthen storage basin or lagoon is used for manure storage, excluding existing operations that are improving waste handling facilities according to Natural Resource Conservation Service standards.

b. The Board of Adjustment decides conditions require a State permit.

3. Nutrient Management Plan.

a. Class 1, 2, 3, and 4 Concentrated Animal Feeding Operations are required to have a nutrient management plan. The applicant shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water. The South Dakota Department of Environment & Natural Resources must approve the plan prior to land application of any wastes. Due to crop rotation, site changes, and other operational changes, the producer should update the plan annually to reflect the current operation and crops grown on the application sites. The applicant shall collect, store, and dispose of liquid and solid manure according to recognized practices of good agricultural management. The economic benefits derived from agricultural operations carried out at the land disposal site are secondary to the proper and safe disposal of the manure.

b. The Nutrient Management Plan is a conservation system for an animal feeding operation. It describes practices and management activities on how best to utilize manure as a fertilizer resource while protecting surface and ground water. The plan deals specifically with managing the amount, source, placement, and timing of the application of manure nutrients to the land. The use of other nutrient sources (i.e. commercial fertilizer) also must be taken into account when planning manure applications. All nutrient management plans developed must meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standard (590) and all applicable DENR and Codington County Zoning Standards.

c. The applicant must maintain records to show compliance with the plan.

d. The plan must comply with County Manure Application Setbacks.

e. Land spreading agreements shall be provided if applicant does not have minimum acreage to apply animal manure.

4. Manure Management and Operation Plan

Classes 1, 2, 3, and 4 Concentrated Animal Feeding Operations shall submit a Manure Management and Operation Plan.

a. Plan must include:

i. The location and specifics of proposed animal manure facilities.

ii. The operation procedures and maintenance of manure facilities.

iii. Plans and specifications must be prepared or approved by a registered professional engineer, or a Natural Resource Conservation Service (NRCS) engineer. Waste treatment facilities will require inspection by an engineer and as-built plans to be submitted to the County Zoning Officer.

iv. Animal manure shall not be stored longer than two years.

v. Manure containment structures shall provide for a minimum design volume of three hundred sixty-five (365) days of storage for 1,000 animal units or more and two hundred forty (240) days of storage for less than one thousand 1,000 animal units.

The Board of Adjustment may reduce the number of days of storage if deemed appropriate.

vi. Producers shall keep records on manure applications on individual fields which document acceptable manure and nutrient management practices have been followed. These records shall include soils test results for surface two feet of soil, actual and projected crop yields, nutrient analysis of manure, and information about date, rate and method of manure applications for individual fields.

b. As a condition of the permit, the County Board of Adjustment may require the producer to participate in environmental training programs and become a certified livestock manager.

5. Management Plan for Fly and Odor Control

Classes 1, 2, 3, and 4 Concentrated Animal Feeding Operations shall dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. A management plan is required for submission of a permit. The County Board of Adjustment will review the need for control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors should be considered in a management control plan.

a. Operational plans for manure collection, storage treatment and use must be kept updated and implemented.

b. Methods to be utilized to dispose of dead animals should be included in the management plan.

c. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds and/or lagoons.

d. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.

e. Store solid manure in containment areas having good drainage to minimize odor production.

f. Remove manure from open pens as frequently as possible to minimize odor production.

g. Consider use of covers on open storage systems for liquid manure systems to reduce odor production.

h. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities.

i. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.

6. Suggested Setbacks and Separation Distance for New Concentrated Animal Feeding Operations and those Expanding by 300 or More Animal Units after July 1, 1997.

SUGGESTED MINIMUMS

	CLASS 1	CLASS 2	CLASS 3	CLASS 4 & 5
Established Residences	2,640 feet	1,760 feet	1,320 feet	1,320 feet
Churches, Businesses and Commercially Zoned Areas, Town Districts	2,640 feet	2,640 feet	1,320 feet	1,320 feet
Incorporated Municipality Limits	5,280 feet plus 440 feet for each additional 1,000 AU over 2,000	5,280 feet	2,640 feet	1,320 feet
Private Wells other than the operator	2,640 feet	1,760 feet	1,320 feet	1,320 feet
Lakes and Streams classified as Fisheries as identified by the State	500 feet	500 feet	200 feet	200 feet
Federal, State & County Road ROW				
Confinement	300 feet	300 feet	200 feet	200 feet
Open Lot	150 feet	150 feet	150 feet	150 feet
Township Road ROW				
Confinement	150 feet	150 feet	150 feet	150 feet
Open Lot	150 feet	150 feet	150 feet	150 feet

Each application for a new or expanded Concentrated Animal Feeding Operation (CAFO) will be reviewed by the Board of Adjustment on a site-specific basis. The Board of Adjustment reserves the right to increase or decrease suggested required setbacks and separation distance on a site specific review, based on one (1) or more of the following considerations.

a. Considerations To Decrease Suggested Setbacks And Separation Distances

i. An existing Concentrated Animal Feeding Operation proposes to expand but does not meet suggested setback or separation distances, the Board of Adjustment may reduce suggested setbacks and separation distances after review of past management practices and proposed improvements to waste handling facilities.

ii. A new Concentrated Animal Feeding Operation is proposed which, because of the waste handling facilities, would not require conformance with suggested setback and separation distances as outlined herein.

b. Considerations To Increase Suggested Setbacks And Separation Distances

i. A concentration of CAFOs in the area exists or would occur which may pose an air or water quality concern.

ii. Due to topography and prevailing wind direction, additional setback and separation distance is appropriate to safeguard air or water quality.

iii. A Concentrated Animal Feeding Operation is in excess of 5,000 animal units.

7. Manure Application Setbacks

The following manure application setbacks apply to all classes of Concentrated Animal Feeding Operations.

a. The County Board of Adjustment may require liquid manure to be incorporated or injected in order to minimize air and water quality impacts.

b. Requests for application of liquid manure by means of irrigation will be reviewed by the Board of Adjustment on a site-specific basis. Impact on air and water quality will be taken into consideration.

c. The following manure application setbacks apply to all classes of Concentrated Animal Feeding Operations.

COUNTY MANURE APPLICATION SETBACKS

CATEGORY	SURFACE IRRIGATION APPLIED	INCORPORATED OR INJECTED
Lake, Rivers and Streams Classified as Fisheries	300 feet	100 feet (lake) 50 feet (river & stream)
Streams and Lakes Classified as Drinking Water Supplies	1000 feet	300 feet
Public Roads	25 feet (surface) from right-of-way 300 feet (irrigation)	10 feet from right-of-way
Area of 10 or more Residences	300 feet (surface) 1,000 feet (irrigation)	300 feet
Public Wells	1000 feet	1000 feet
Private Shallow Wells	250 feet	250 feet
A Residence other than the Operator	300 feet (surface) 1,000 feet (irrigation)	300 feet
Natural or Manmade Drainage	200 feet	50 feet

8. Standards for Conditional Uses

a. The County Board of Adjustment may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.

b. The County Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations additional conditions which the Board of Adjustment considers necessary to protect the public health, safety and welfare.

c. Conditional Uses shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are being adhered to.

d. When considering an application, the County Board of Adjustment will take into consideration current and past violations relating to Concentrated Animal Feeding Operations that the applicant has an interest in.

e. Permit applicants will be required to file a letter of assurances as required by the Board of Adjustment. The letter of assurances will be prepared by the zoning officer and signed by both the applicant and the zoning officer. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and letter of assurances. Any violation of the regulations or non compliance with the letter of assurances shall be cause for revoking a permit. Permit applicants will be notified by registered mail and a hearing before the board of adjustment will be held concerning status of the permit. The Board of Adjustment shall either revoke the permit or set a time line for compliance. If compliance is not met, the permit shall be revoked and the permit holder ordered to cease operations.

9. Information Required for Class 1 and 2 Concentrated Animal Feeding Operation Permit.

a. Owner's name, address and telephone number.

b. Legal descriptions of site and site plan.

c. Number and type of animals.

d. Nutrient management plan.

e. Manure management and operation plan.

f. Management plan for fly and odor control.

g. Information on ability to meet suggested setbacks and separation distance including site plan to scale.

h. General permit from South Dakota Department of Environment & Natural Resources if available for animal species.

i. Review of plans and specifications and nutrient management plan by the South Dakota Department of Environment & Natural Resources.

j. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.

k. Notification of whomever maintains the access road (township, county and state). Notification of public water supply officials.

l. Any other information as contained in the application and requested by the County Zoning Officer.

10. Information Required for Class 3 and 4 Concentrated Animal Feeding Operation Permit.

a. Owner's name, address and telephone number.

b. Legal descriptions of site and site plan.

c. Number and type of animals.

d. Nutrient management plan.

e. Manure management and operation plan.

f. Management plan for fly and odor control.

g. Information on ability to meet suggested setbacks and separation distance, including site plan to scale.

h. Review of plans and specifications and nutrient management plan by the South Dakota Department of Environment & Natural Resources if using lagoon or earthen storage basin.

i. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.

j. Notification of whomever maintains the access road (township, county and state). Notification of public water supply officials.

k. Any other information as contained in the application and requested by the County Zoning Officer.

CHAPTER 5.22. WIND ENERGY SYSTEM (WES) REQUIREMENTS.

Section 5.22.01. Applicability.

1. The requirements of these regulations shall apply to all WES facilities except private facilities with a single tower height of less than seventy-five (75) feet and used primarily for on-site consumption of power.

Section 5.22.02. Federal And State Requirements.

1. All WES(s) shall meet or exceed standards and regulations of the Federal Aviation and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WES(s).

Section 5.22.03. General Provisions.

1. Mitigation Measures

   a. Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the WES.

b. Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.

c. Compaction. The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.

d. Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project life.

e. Fences. The permittees shall promtply replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner.

f. Roads

i. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WES project and shall notify the state, county or township governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the WES. Where practical, all-weather roads shall be used to deliver cement, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.

ii. The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the WES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WES components. The permittees shall notify the County of such arrangements upon request of the County.

iii. Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. When access roads are constructed across streams and drainageways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.

iv. Private Roads. The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

v. Control of Dust. The permittees shall utilize all reasonable measures and practices of construction to control dust.

g. Soil Erosion and Sediment control Plan. The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the County. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each

project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slop**e** stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

2. Setbacks. Wind turbines shall meet the following minimum spacing requirements.

   a. Distance from existing off-site residences, businesses, churches, and buildings owned and/or maintained by a governmental entity shall be at least one thousand (1,000) feet. Distance from on-site or lessor's residence shall be at least five hundred (500) feet. Distance to be measured from the wall line of the neighboring principal building to the base of the WES tower.

   b. Distance from centerline of public roads shall be at least one hundred ten percent (110%) the height of the wind turbine, measured from the ground surface to the tip of the blade when in a fully vertical position.

   c. Distance from any property line shall be at least one hundred ten percent (110%) the height of the wind turbine, measured from the ground surface to the tip of the blade when in a fully vertical position unless wind easement has been obtained from adjoining property owner.

   d. Exception: The Board of Adjustment may allow setback/separation distances to be less than the established distances identified above, if the adjoining landowners agree to a lesser setback/separation distance. If approved, such agreement is to be recorded with the deed of the affected property and filed with the Register of Deeds.

3. Electromagnetic Interference. The permittees shall not operate the WES so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the WES or its operation, the permittees shall take the measures necessary to correct the problem.

4. Lighting. Towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.

5. Turbine Spacing. The turbines shall be spaced no closer together than three (3) rotor diameters (RD) (measurement of blades tip to tip) within a string. If required during final micro siting of the turbines to account for topographic conditions, up to ten (10) percent of the towers within a string may be sited closer than the above spacing but the permittees shall minimize the need to site the turbines closer.

6. Footprint Minimization. The permittees shall design and construct the WES so as to minimize the amount of land that is impacted by the WES. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers and monitoring systems shall be

mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.

7. Collector Lines. When located on private property, the permittees shall place electrical lines, known as collectors, and communication cables underground between the WES and the feeder lines. The exception to this requirement is when the total distance of collectors from the substation require an overhead installation due to line loss of current from an underground installation. Collectors and cables shall also be placed within or immediately adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner. This paragraph does not apply to feeder lines.

8. Feeder Lines. The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists. Changes in routes may be made as long as feeders remain on public rights-of-way and approval has been obtained from the governmental unit responsible for the affected right-of-way. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner. The permittees shall submit the site plan and engineering drawings for the feeder lines before commencing construction.

9. Decommissioning/Restoration/Abandonment

    a. Decommissioning Plan. Within 120 days of completion of construction, the permittees shall submit to the County a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries out its obligation to provide for the resources necessary to fulfill these requirements. The County may at any time request the permittees to file a report with the County describing how the permittees are fulfilling this obligation.

    b. Site Restoration. Upon expiration of this permit, or upon earlier termination of operation of the WES, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead collector and feeder lines, foundations, buildings and ancillary equipment to a depth of four (4) feet. To the extent possible the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the County and shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the County prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen (18) months after expiration.

    c. Abandoned Turbines. The permittees shall advise the County of any turbines that are abandoned prior to termination of operation of the WES. The County may require the permittees to decommission any abandoned turbine.

10. Height from Ground Surface. The minimum height of blade tips, measured from ground surface when a blade is in fully vertical position, shall be twenty-five (25) feet.

11. Towers.

    a. Color and Finish. The finish of the exterior surface shall be non-reflective and non-glass.

    b. All towers shall be singular tubular design.

12. Noise. Noise level shall not exceed 50 dBA, average A-weighted Sound pressure including constructive interference effects at the perimeter of the principal and accessory structures of existing off-site residences, businesses, and buildings owned and/or maintained by a governmental entity.

13. Permit Expiration. The permit shall become void if no substantial construction has been completed within three (3) years of issuance.

14. Required Information for Permit.

    a. Boundaries of the site proposed for WES and associated facilities on United States Geological Survey Map or other map as appropriate.

    b. Map of easements for WES.

    c. Map of occupied residential structures, businesses, churches and buildings owned and/or maintained by a governmental entity.

    d. Map of sites for WES, access roads and utility lines.

    e. Location of other WES in general area.

    f. Project schedule.

    g. Mitigation measures.

    h. Haul road agreements.

CHAPTER 5.23 WILLOW CREEK FLOOD DAMAGE PREVENTION.

The Codington County Planning Commission and County Commissioners shall require an applicant who requests a use permit or plat in the geographic area identified within the scientific and engineering report entitled “Willow Creek Floodplain Study” to follow the requirements found within the City of Watertown’s Willow Creek Flood Damage Prevention Ordinance (Adopted by the City of Watertown on April 2, 2001),

CHAPTER 5.24 WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES.

Section 5.24.01. Purposes.

1. The general purpose of this Section is to regulate the placement, construction, and modification of Towers and Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the

development of the competitive wireless telecommunications marketplace in the County. Specifically, the purposes of this Ordinance are:

a. To regulate the location of Towers and Telecommunications Facilities in the County;

b. To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;

c. To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;

d. To promote and encourage shared use/collocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;

e. To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;

f. To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and

g. To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses.

Section 5.24.02. Development of Towers.

1. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred and fifty (150) feet. Towers may be permitted in excess of one hundred and fifty (150) feet in accordance with "Criteria for Site Plan Development Modifications."

2. No new Tower shall be built, constructed, or erected in the County unless the Tower is capable of supporting three other Persons' operating Tele-communications Facilities comparable in weight, size, and surface area to the Telecommunications Facilities installed by the Applicant on the Tower within six (6) months of the completion of the Tower construction. No tower shall charge co-location fees in excess of commercially reasonable industry amounts. Each tower constructed shall upon the request of Codington County mount law-enforcement or public safety communications apparatus.

3. An application to develop a Tower shall include:

   a. The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application.

   b. The legal description, folio number, and address of the parcel of land upon which the Tower is situated.

   c. The names, addresses, and telephone numbers of all owners of other Towers or usable

Antenna Support Structures within a one-half (½) mile radius of the proposed new Tower site, including County-owned property.

d. A description of the design plan proposed by the Applicant. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The Applicant must demonstrate the need for Towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the Applicant's telecommunications services.

e. An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to install or collocate the Applicant's Telecommunications Facilities on Towers or usable Antenna Support Structures owned by other Persons located within a one-half (½) mile radius of the proposed Tower site. In the event that one reason for the unsuccessful efforts to install or collocate is that fees to be charged are not commercially reasonable, an explanation shall be provided why said charges are commercially reasonable.

f. Written technical evidence from an Engineer(s) that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another person's Tower or usable Antenna Support Structures owned by other Persons located within one-half (½) mile radius of the proposed Tower site.

g. A written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.

h. Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in, "Structural Requirements," of this Ordinance.

i. Written, technical evidence from a qualified Engineer(s) acceptable to the Fire Marshall and the building official that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.

j. The Act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the County to condition or deny on the basis of RF impacts the approval of any Telecommunications Facilities (whether mounted on Towers or Antenna Support Structures) which meet FCC standards. In order to provide information to its citizens, the County shall make available upon request copies of ongoing FCC information and RF emission standards for Telecommunications Facilities transmitting from Towers or Antenna Support Structures. Applicants shall be required to submit information on the proposed power density of their proposed Telecommunications Facilities and demonstrate how this meets FCC standards.

k. No application shall be accepted from landowners or on property on which there are current or past unresolved violations outstanding.

4. The Board of Adjustment may require an Applicant to supplement any information that the Board considers inadequate or that the Applicant has failed to supply. The Board of Adjustment may deny an Application on the basis that the Applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the Board in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial.

Section 5.24.03. Setbacks.

1. All Towers up to one-hundred (100) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district.

2. Towers in excess of one hundred (100) feet in height shall meet the following.

    a. Distance from existing off-site residences, business and public buildings shall be one thousand (1,000) feet. Distance from on-site or lessor's residence shall be five hundred (500) feet.
    b. Distance from public right-of-way shall be the height of the tower.

    c. Distance from any property line shall be the height of the tower.

3. Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.

4. Setback requirements may be modified, as provided herein, when placement of a Tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the Tower.

Section 5.24.04. Structural Requirements.

1. All Towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with the Building Code, and any other standards outlined in this Ordinance. All Towers in operation shall be fixed to land.

Section 5.24.05. Separation of Buffer Requirements.

For the purpose of this Section, the separation distances between Towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower.

Proposed Towers must meet the following minimum separation requirements from existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Ordinance:

1. Monopole Tower structures shall be separated from all other Towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.

2. Self-supporting lattice or guyed Tower structures shall be separated from all other self-supporting or guyed Towers by a minimum of fifteen hundred (1,500) feet.

3. Self-supporting lattice or guyed Tower structures shall be separated from all monopole Towers by a minimum of seven hundred and fifty (750) feet.

4. The separation requirements contained in 5.24.05 shall not be required of existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Ordinance.

Section 5.24.06. Method Of Determining Tower Height.

1. Measurement of Tower height for the purpose of determining compliance with all requirements of this Section shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto which extend more than twenty (20) feet over the top of the Tower structure itself. Tower height shall be measured from grade.

Section 5.24.07. Illumination.

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a Tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA.

Section 5.24.08. Exterior Finish.

1. Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

Section 5.24.09. Modification Of Towers.

1. A Tower existing prior to the effective date of this Ordinance, which was in compliance with the Count's zoning regulations immediately prior to the effective date of this Ordinance, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Section, except for Sections "Separation or Buffer Requirements", "Certification and Inspections", and "Maintenance," provided:

    a. The Tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six (6) months of the completion of the modification or rebuild, additional Telecommunications Facilities comparable in weight, size, and surface area to the discrete operating Telecommunications Facilities of any Person currently installed on the Tower.

    b. An Application for a development permit is made to the Board of Adjustment which shall have the authority to issue a development permit without further approval. The grant of a development permit pursuant to this Section allowing the modification or demolition and rebuild of an existing nonconforming Tower shall not be considered a determination that the modified or demolished and rebuilt Tower is conforming.

    c. The height of the modified or rebuilt Tower and Telecommunications Facilities attached thereto do not exceed the maximum height allowed under this Ordinance.

2. Except as provided in this Section, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty (180) days. This Ordinance shall not be interpreted to legalize any structure or use existing at the time this Ordinance is adopted which structure or use is in violation of the Code prior to enactment of this Ordinance.

Section 5.24.10. Certifications And Inspections.

1. All Towers shall be certified by an Engineer to be structurally sound and in conformance with the requirements of this ordinance and all other construction standards set forth by federal and state law. For new monopole Towers, such certification shall be submitted with an Application pursuant to of this Ordinance and every five (5) years thereafter. For existing monopole Towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every five (5) years thereafter. For new lattice or guyed Towers, such certification shall be submitted with an Application pursuant to of this Ordinance and

every two (2) years thereafter. For existing lattice or guyed Towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every two (2) years thereafter. The Tower owner may be required by the County to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the Tower is jeopardized.

2. The County or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspections and certifications required above, to inspect the Tower for the purpose of determining whether it complies with this ordinance and all other construction standards provided by federal and state law.

3. The County reserves the right to conduct such inspections at any time, upon reasonable notice to the Tower owner. All expenses related to such inspections by the County shall be borne by the Tower owner.

Section 5.24.11. Maintenance.

1. Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

2. Tower owners shall install and maintain Towers, Telecommunications Facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

3. All Towers, Telecommunications Facilities, and Antenna Support Structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person.

4. All maintenance or construction of Towers, Telecommunications Facilities, or Antenna Support Structures shall be performed by licensed maintenance and construction personnel.

5. All Towers shall maintain compliance with current RF emission standards of the FCC.

6. In the event that the use of a Tower is discontinued by the Tower owner, the Tower owner shall provide written notice to the County of its intent to discontinue use and the date when the use shall be discontinued.

Section 5.24.12. Criteria For Site Plan Development Modifications.

1. Notwithstanding the Tower requirements provided in this Ordinance, a modification to the requirements may be approved by the Board of Adjustment as a Conditional use in accordance with the following:

    a. In addition to the requirement for a Tower Application, the Application for modification shall include the following:

        i. A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.

ii. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification.

iii. A technical study that documents and supports the criteria submitted by the Applicant upon which the request for modification is based. The technical study shall be certified by an Engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.

iv. For a modification of the setback requirement, the Application shall identify all parcels of land where the proposed Tower could be located, attempts by the Applicant to contract and negotiate an agreement for collocation, and the result of such attempts.

v. The Board of Adjustment may require the Application to be reviewed by an independent Engineer under contract to the County to determine whether the antenna study supports the basis for the modification requested. The cost of review by the County's Engineer shall be reimbursed to the County by the Applicant.

b. The Board of Adjustment shall consider the Application for modification based on the following criteria:

i. That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.

ii. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.

iii. In addition, the board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification.

2. In addition to the requirements of subparagraph (A) of this Section, in the following cases, the Applicant must also demonstrate, with written evidence, the following:

a. In the case of a requested modification to the setback requirement, that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located and the alternative for the Person is to locate the Tower at another site which is closer in proximity to a residentially zoned land.

b. In the case of a request for modification of the separation and buffer requirements from residential use of land of , if the Person provides written technical evidence from an Engineer(s) that the proposed Tower and Telecommunications Facilities must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system and if the Person is willing to create approved landscaping and other buffers to screen the Tower from being visible to residentially used property.

c. In the case of a request for modification of the height limit for Towers and Telecommunications Facilities or to the minimum height requirements for Antenna Support Structures, that the modification is necessary to:

i. facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or

ii. To meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented with written, technical evidence from an Engineer(s) that demonstrates that the height of the proposed Tower is the minimum height required to function satisfactorily, and no Tower that is taller than such minimum height shall be approved.

Section 5.24.13. Abandonment.

1. If any Tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the Codington County Planning Commission shall notify the Owner, with a copy to the Applicant, that the site will be subject to a determination by the Codington County Planning Commission that such site has been abandoned. The Owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the Tower has been in use or under repair during the period. If the Owner fails to show that the Tower has been in use or under repair during the period, the Codington County Planning Commission shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within seventy-five (75) days, dismantle and remove the Tower.

2. To secure the obligation set forth in this Section, the Applicant [and/or Owner] may be required to post a bond.

CHAPTER 5.25. SOIL EROSION AND SEDIMENTATION CONTROL.

1. Before issuing a building permit, the Zoning Officer may require a filing of a certificate of intent to adhere to the county soil loss standards developed by the Codington County Conservation District. The Zoning Officer shall consult the Codington County Soil Erosion and Sedimentation Control Ordinance that was developed pursuant to SDCL 38-8A before determining if the proposed activity requires such a certificate of intent.

2. If a complaint is received regarding a violation of the county soil loss standards caused by non-agricultural activity, the Zoning Officer shall undertake those actions outlined herein in order to bring about compliance.

CHAPTER 5.26. MINERAL EXPLORATION AND DEVELOPMENT.

Separate permits are required for mineral extraction and milling. The applicant for a permit must meet the following minimal conditions as they pertain to the permit for which application is made.

1. The applicant shall provide:

    a. A description of the mineral or minerals which are the subject of the mining or milling.

    b. Maps showing the general area within which the mining or milling operation will be conducted.

    c. A detailed description of the regional environmental conditions, to include surface land use and vegetation as well as a detailed description of the area's geologic formations and hydrology from the best available scientific sources are required for mining or milling permits.

    d. An environmental assessment which establishes base line conditions for radioactive and toxic material in air, ground and surface water, soil, vegetation and animals is required for mining or milling permits.

    e. The applicant shall provide maps indicating the location of the affected sites to the nearest section of land, a technical description of the mining or milling process, the types of equipment to be used, and the estimated timetable for each phase of work and for final completion of the program.

    f. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed mining or milling.

    g. A description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the area's ecological balance and any other related hazard to public health and safety.

2. The applicant shall provide for a plan for land reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands. The reclamation plan shall include:

    a. A reclamation schedule.

    b. Methods of plugging drill holes.

    c. Methods of severing and returning topsoil and subsoil.

    d. Methods of grading, backfilling and contouring of exploration sites, access roads, and mining sites.

    e. Methods of waste management and disposal, including liquid and solid wastes.

    f. Method of revegetation.

3. The applicant may be required to post a surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate of the cost of reclamation and decontamination. The bond shall be released five (5) years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.

4. The applicant shall identify specific phases when monitoring and inspection of the mining and milling activities shall be conducted by County, State, or Federal personnel or their representatives to assure compliance with all applicable rules and regulations. If the special use permit is granted, the permit shall identify such inspection and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Planning and Zoning Commission.

5. A conditional use permit shall be issued only after all conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of mining and milling activities.

CHAPTER 5.27 AGRICULTURAL EASEMENT.

The following easement is to be utilized as required for farm and non-farm residential development within the Agricultural, Lake Park and Planned Residential Districts. (See 3.04.03.9.a)

Prepared by:
Codington County Zoning Officer (or by Grantor or Grantor's Attorney)
1910 West Kemp Avenue (or Grantor's or Grantor's Attorney's address)
Watertown, SD 57201 (or Grantor's or Grantor's Attorney's city)

AGRICULTURAL EASEMENT

1. Purpose. This easement is required in the Agricultural District.

2. Easement.

   ("Grantors") are the owners of real property described as follows:
   _____
   _____

   In accordance with the conditions set forth in the decision of Codington County, dated _____ 20____, approving a permit for a dwelling on the above described property, and in consideration of such approval, Grantors grant to the owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

a. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this easement that the above described property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include the cultivation, harvesting, and storage of crops and livestock raising and the application of chemicals, operation of machinery, application of irrigation water, and other accepted and customary agricultural activities conducted in accordance with Federal and State laws. These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantors' use of Grantors' property for residential purposes. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors' use of Grantors' property for residential purposes, and Grantors hereby grant an easement to adjacent property owners for such activities.

b. Nothing in this easement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this easement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of this easement.

IN WITNESS WHEREOF, the Grantors have executed this easement on _____, 20____.

_____
Signature, Grantor

STATE OF SOUTH DAKOTA
SS:
COUNTY OF CODINGTON

This instrument was acknowledged before me on _____, 20____ by _____ (Grantors).

_____Notary Public

My Commission Expires: _____

CHAPTER 5.28. Range Requirements.

Section 5.28.01. Conditional Use Permits.

No Range shall be established within the Codington County without first obtaining a Conditional Use Permit.

Section 5.28.02 General Regulations for All Ranges.

No Conditional Use Permit shall be approved for any Range unless all of the following conditions are met (unless specifically waived by the Board of Adjustment):

1. A safety plan shall be submitted along with the application. The plan, once approved, shall be posted in a prominent place at the site. Any changes to the safety plan shall be submitted to the County Board of Adjustment for approval. At a minimum the safety plan must state:

    a. A method of identifying the Range Officer when the Range Officer is present at the site. Additionally, a permanent log identifying the Range Officer who is present when required at the facility must be maintained and available for inspection by the County or local law enforcement officers.

    b. The authority of Range Officers to carry out the rules and regulations on the site and to enforce penalties.

    c. The policy for the site for the use of alcohol.

    d. Controlled substances are prohibited on the site.

    e. Rules for the safe handling of weapons.

    f. A building and grounds maintenance plan.

    g. Administrative Rules to include regulations that normally govern range schedules, parking, guest policies, member/user responsibilities, hours of operation, security, program development, range supervision and other items such as sign-in procedures.

    h. Regulations on the type of weapon, shooting activity, caliber, shot size or type of target to ensure safety for range users and others.

    i. The penalties that are in force for violations of the safety plan.

    j. The method used to control trespass or unauthorized access to the range or preserve.

2. On an annual basis, applicants must provide proof of insurance.

3. Applicants shall continuously keep the City informed as to the current names and telephone numbers of the officers of any organization having an interest in the Range. Any changes to the names or telephone numbers of the officers shall be reported to the County within thirty (30) days of the change.

4. All Ranges must control entrance to their sites.

5. No alcohol licenses shall be granted to any site which has a Range.

6. Parking space for all members, owners or guests must be on-site and is not allowed on public streets or roads.

Section 5.28.03 Special Regulations for Ranges. Applications for all Ranges, in addition to any other requirements of this Ordinance, must also show:

1. A survey delineating the layout of all individual Ranges.

2. Setbacks to all property lines.

3. Method of containing projectiles within each individual range (such as earthen berms or other method).

4. Methods to be employed to reduce noise, including impulse noise.

    a. The maximum noise that may escape the range into areas not controlled by the owner is 125 dB.

5. All Ranges shall be designed using the NRA Range Source Book as a guideline.

Section 5.28.04 Application Requirements. Each application for a Range shall, at a minimum, include the following:

1. A description of specific activities to be conducted on-site.
2. The hours and days of operation.

3. The maximum number of people using the facility at any one time.

4. A plan, if applicable, for collecting and recycling used shot.

5. A delineation of any special events, if any.

6. A sewage, water and solid waste management plan.

Section 5.28.05 Area Regulations.

1. Minimum Lot Size: Ten (10) acres

2. Minimum Front Yard: One hundred fifty (150) feet

3. Minimum Side Yard: Three hundred (300) feet

4. Back of the Range Setback: A minimum of one thousand (1000) feet from any buildings and/or roads.

5. Setback from Residences: One-quarter (1/4) mile to be measured from the firing line to the nearest residential dwelling.

6. Setback from Commercial Uses: One-quarter (1/4) mile to be measured from the firing line to the nearest commercial structure.

7. Setback from Churches and Schools: One-quarter (1/4) mile to be measured from the firing line to the nearest church or school.

8. Setback from Municipalities: Three (3) miles to be measured from the firing line to the corporate limits of the municipality.

Section 5.28.06. Miscellaneous Regulations.

1. In the event that any provision of this Ordinance or the Conditional Use Permit is violated, or the County otherwise reasonably believes that the health, safety or general welfare of the public is endangered by the use, or if the County reasonably believes that a public nuisance has been created, then, upon ten (10) days written notice, the County may originate action to either modify or cancel any Conditional Use Permit.

Chapter 5.29. Waiver of Setback from Existing Concentrated Animal Feeding Operation

The following waiver is to be utilized as required for farm and non-farm residential development in the Agricultural Zoning District which is located within one-half mile of an existing concentrated animal feeding operation the Agricultural Zoning District (See 3.04.03.9.b)

Prepared by:
Codington County Zoning Officer (or by Grantor or Grantor's Attorney)
1910 West Kemp Avenue (or Grantor's or Grantor's Attorney's address)
Watertown, SD 57201 (or Grantor's or Grantor's Attorney's city)

WAIVER OF SETBACK FROM
EXISTING CONCENTRATED ANIMAL FEEDING OPERATION

The following waiver is to be used when a dwelling (Farm or Non-Farm) is proposed to be constructed within one-half (1/2) mile of an existing Concentrated Animal Feeding Operation. The waiver shall be filed with the Register of Deeds. Grantors are the owner(s) of property applying for the proposed residential development. (See 3.04.03.9.b)

1. Purpose. This waiver is required for any dwelling to be constructed within one-half (1/2) mile of an existing concentrated animal feeding operation as defined by the Codington County Zoning Ordinance.

2. Waiver:

("Grantors") are the owners of real property described as follows:
_____

In accordance with the conditions set forth in the decision of Codington County, dated _____ 20____, approving a plat with a residential dwelling development right or by the issuance of a permit for a residential dwelling either to be located within one-half (1/2) mile of the existing concentrated animal feeding operation located at the following property, _____ and in consideration of such approval, Grantors agree to the perpetual non-exclusive easement as follows:

1. The Grantors, their heirs, successors, and assigns acknowledge that the location of a residential development/dwelling on (legal description) is within one-half (1/2) mile of an existing concentrated animal feeding operation. This easement waives the Grantors, their heirs, successors, and assigns common law rights to object to the existing concentrated animal feeding operation's, located at the above legal description, potential need for a variance from the setback requirements of the Codington County Zoning Ordinance.

2. Further, the grantors hereby waive all common law rights to appeal any decision of Codington County Board of Adjustment relating to the issuance of a variance regarding separation setbacks from the existing concentrated animal feeding operation located at above legal description.

IN WITNESS WHEREOF, _____, 20__

Grantors (Print)_____

Grantors (Signature) _____

STATE OF SOUTH DAKOTA
SS:
COUNTY OF CODINGTON

This instrument was acknowledged before me on _____, 20____ by _____ (Grantors).

_____Notary Public

My Commission Expires: _____

CHAPTER 5.30. ADULT USE REGULATIONS.

In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

Section 5.30.01 Setbacks.

1. None of the following uses may be established, operated or maintained within one thousand (1,000) feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.

    a. Adult bookstore.

    b. Adult motion picture theater.

    c. Adult photo studio.

    d. Adult Entertainment Facility.

    e. Any use which has as a part of its operation an adult use component including but not limited to, a restaurant or eating place, a bar, lounge or tavern.

    f. Any use intended to provide adult amusement or entertainment.

2. Not more than two of the following uses may be established, operated or maintained within one thousand (1,000) feet of each other:

    a. Adult bookstore.

    b. Adult motion picture theater.

c. Adult photo studio.

d. Adult entertainment facility.

e. Any use which has as a part of its operation an adult use component including but not limited to, a restaurant or eating place, a bar, lounge or tavern.

f. Any use intended to provide adult amusement or entertainment.
g. A bar.

h. A liquor store.

3. The 1,000-foot restriction provided for in 5.30.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:

a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.

b. That the proposed use will not enlarge or encourage the development of a 'skid row' area.

c. That all applicable regulations will be observed.

Section 5.30.02. Required License.

It shall be unlawful for any person to engage in the business of operating an adult use in Codington County without first having obtained a license from the Codington County Commissioners.

Section 5.30.03 Application; Standards for Issuance.

1. Application for an adult use license shall be made in writing and shall state the following:

a. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.

b. The location of the adult use business.

c. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.

d. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.

e. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.

f. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.

2. Within fifteen (15) days after receipt of an application for an adult use license, the Codington County Commissioners shall investigate the information contained in the application and shall determine the following:

    a. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of Codington County, including zoning ordinances.
    b. That the premises and each manager and employee comply with the provisions of Section 5.30.03.1 as such provisions apply to them.

    c. That the applicant, each manager and each employee are over twenty-one (21) years of age.

    d. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.

3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 5.30.03 within fifteen (15) days after completion of such investigation, the Codington County Commissioners shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.

4. If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 5.30.03 within fifteen (15) days after completion of such investigation, the Codington County Commissioners shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the County with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

Section 5.30.04. Conditions & Regulations Governing Operation; Violation; Penalty.

1. The following regulations shall govern and control the business of operating an adult use in Codington County:

    a. No person under twenty-one (21) years of age shall be allowed on the licensed premises.

    b. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.

    c. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the County Commissioners written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 5.30.03.

d. No adult use shall be located on-premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.

e. No adult use shall be permitted unless the premises on which such business is located complies with the requirements of the zoning ordinance.

f. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.

g. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.

h. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.

2. In addition to the requirements established in Section 5.30.04.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on-premises by use of motion picture devices or other such operations means:

a. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.

b. There shall be no aperture whatsoever in any wall or partition between viewing areas.

c. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.

3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment cabaret:

a. All performers shall be at least twenty-one (21) years of age.

b. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.

c. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.

d. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.

4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the County to fail to comply with the conditions and regulations set forth in subsections 5.30.03 and 5.30.04 of this section as they are applicable to the licensed business, or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.

5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 1.02.03 of this Ordinance.

Section 5.30.05 Suspension or Revocation.

Nothing in the terms of this article shall preclude the right of the Codington County Commissioners to suspend or revoke the license of the licensee, as follows:

1. The Codington County Commissioners may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7)-day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.

2. The Codington County Commissioners may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the Codington County Commissioners determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

5.30.06 Exception.

1. The above language of 5.30 "Adult Use Regulations" adopted April 25, 2006, hereby does not apply to the following legal description: OL 2 SE 1/4 less H-1 E 1/2 SE 1/4 less S 105' W 110' Section 6-116-52 and/or business currently known as "The South Fork Lounge".

Chapter 5.31. PRIVATE WIND ENERGY CONVERSION SYSTEMS (PWECS). The regulations regarding Private Wind Energy Conversion Systems (hereafter referred to as PWECS) shall be as follows:

1. Limited Use. No PWECS installed in accordance with the requirements of these regulations shall generate power as a commercial enterprise as defined by the Public Utility Commission.

2. Setback Requirements. The minimum distance between the property line, overhead utility lines or another wind turban, and any tower support base of a PWECS shall be equal to the proposed tower height (plus the radius of the rotor for the horizontal access machines).

3. Contiguous property owners and planned developments may construct a PWECS for their use in common. If property held by more than one (1) single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted to the Board of Adjustment for their approval.

4. Tower Access. Climbing access to the PWECS 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 there is access to it no lower than twelve (12) feet from the ground.

5. Electromagnetic Interference. If a PWECS is installed in any location along or within the major access of an existing microwave communications link, the person desiring to install the PWECS shall be required to provide a letter from the business whose link they are within or adjacent to stating that the business whose link is affected would have no objection to the installation of the PWECS.

6. Air Space. A PWECS 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.

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

Chapter 5.32 Religious Conference Facility Standards.

Section 5.32.01. Requirements

1. Religious Conference Facilities shall comply with the following conditions:

    a. Religious Conference Facility's buildings and activities shall be set back no less than 300) feet from any off-site residential use.

    b. A Religious Conference Facility shall contain a minimum lot area of twenty-five (25) acres.

    c. A Religious Conference Facility shall be owned and operated by a 501(c) 3 non-profit organization.

    d. Religious Conference Facilities shall be designed in a manner which will minimize the impact of traffic, noise and glare on the surrounding uses.

    e. Religious Conference Facilities must have access to a concrete or bituminous-asphalt street. Further all interior streets constructed within the Religious Conference Facility shall be either concrete or asphalt with the design to be approved by the County Highway Superintendent.

f. Religious Conference Facilities are not allowed over the shallow aquifer or wellhead protection areas. EXCEPTION: A Religious Conference Facility may be allowed over a shallow aquifer if the proposed Religious Conference Facility utilizes a Board of Adjustment approved central sanitary sewer collection system, which may consist of holding tanks, trunk lines, lift stations, and/or treatment facilities.

g. Easements per 3.04.03.9 of this ordinance shall be required to be placed on a Religious Conference Facility in order to protect agricultural operations or practices in the adjoining areas.

h. A site plan shall be submitted including the interior layout of the building and exterior design of the premises.

i. On-premise signage: The number, size and illumination standards shall be determined by the Board of Adjustment.

j. Sleeping and dining facilities shall be registered with the South Dakota Department of Health and provide a smoke detector in each sleeping room.

k. The length of stay of any registered guest shall not exceed thirty (30) days during any 120-day consecutive period.

l. Campgrounds associated with Religious Conference Facilities shall comply with the following conditions:

   i. Each campsite shall contain at least two thousand (2,000) square feet.

   ii. The campground(s) shall be supplied with a water supply and sewage disposal facilities, including washing, toilets, and similar facilities, and all of which shall meet all applicable State and County codes and regulations.

   iii. Access roads shall be provided to each campsite and all access roads shall have a minimum unobstructed width of fourteen (14) feet for all one-way roads, and twenty (20) feet for all two-way roads.

   iv. Campsites shall be used by the same persons as temporary/seasonal stays only.

   v. No manufactured homes shall be located in any campground.

   vi. Religious Conference Facilities shall keep accurate records as to the length of time a person stays in the campground, and shall make said records available to the Zoning Officer upon request.

2. In addition to the following information, plans shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this chapter and all other relevant laws, ordinances, rules and regulations. The Zoning Officer may waive the submission of plans if the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this chapter. The site plan shall contain the following:

   a. The address of the property and the legal description.

   b. The name of the project and/or business.

   c. The scale and north arrow.

   d. All existing and proposed buildings or additions.

e. Dimensions of all buildings.

f. Distance from all building lines to the property lines at the closest points.

g. Building height and number of stories.

h. Dimensions of all property lines.

i. Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles.

j. Screening; show height, location and type of material to be used.

k. The landscaped setback and trees; indicate species of trees and material to be used for landscaping.

l. Name and location of all adjacent streets, alleys, waterways and other public places.

m. Proposed grading and drainage pattern.

n. Proposed interior circulation pattern indicating the status of street ownership.

o. Proposed open space uses;

p. Utility (water, sewer, electricity, etc.) plans.

q. Relation of the proposed development to the surrounding area and comprehensive plan.

r. Phasing plan for development.

2. Approved plans shall not be changed, modified, or altered without authorization from the Board of Adjustment giving final approval, and all work shall be done in accordance with the approved plans. (ordinance 38)