Special Meeting Agenda
City Council/Planning Commission

5:30 pm Special Meeting
Tuesday February 8, 2011
Large Conference Room – City Hall
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**

2. **Adoption of Agenda**

3. **Education Session** (Discussion only. No action will be taken on these items)
   a. Future Land Use Map.
   b. Vermillion/Clay County Joint Jurisdictional Ordinance.

4. **Adjourn**

Access the City Council Agenda on the web – www.vermillion.us

Addressing the Council: Persons addressing the Council shall use the microphone at the podium. Please state your name and address. Presentations are limited to 5 minutes. For those who do not appear on the agenda, no decision is to be expected at this time.

Meeting Assistance: If you require assistance, alternative formats and/or accessible locations consistent with the Americans with Disabilities Act, please contact the City Manager's Office at 677-7050 at least 3 working days prior to the meeting.

Council Meetings: City Council regular meetings are held the first and third Monday of each month at 7:00 p.m. If a meeting falls on a City holiday, the meeting will be scheduled for the following Tuesday.

Live Broadcasts of Council Meetings On Cable Channel: Regular City Council meetings are broadcast live on Cable Channel 3.

As a courtesy to others, we ask that cellular phones and pagers be turned off during the meeting.

Council/Planning Commission Agenda Memo

From: Andy Colvin, Assistant to the City Manager

Meeting: February 8, 2011

Subject Education Session – Future Land Use Map

Presenter: Andy Colvin/Toby Brown

Background: With the upcoming proposal to adopt the Joint Jurisdictional Ordinance, SECOG has recommended the City adopt a future land use map prior to the joint ordinance. The City's Comprehensive Plan currently has no provision for land use categories outside of City limits since the plan focused more on infill. The future land use map will serve as a guide for the Planning Commission and City Council to make policy decisions within the joint jurisdictional area and 3 mile platting jurisdiction (Master Street Plan Adoption).

Since there are no defined use categories in the area currently, it would be difficult to consider zone change requests and provide for future extensions of utilities and infrastructure.

Discussion: On June 2, 2010 the City Council and Planning Commission met jointly to review and discuss two proposed future land use maps. Both maps were developed by the Planning Commission: one was very broad and encompassed an area along the Missouri River from County line to County line; the other was scaled-back and looked at natural boundaries and limits for development. The consensus of the group was to continue working with the City/County planning committee.

The planning committee looked at both maps and discussion was impetuous at times. The disagreement was likely due to the concern on part of the County that the maps were intended to serve as the joint jurisdictional zoning boundary. On the contrary, the future land use map serves as a guide for policy decisions, both now and in the future. Decisions on platting and zoning will be reflected by this map. The document can be changed as circumstances warrant.

Conclusion/Recommendations: The proposed map is a joint effort between City staff and SECOG planners. The boundaries of the map are representative of the scaled back

version previously mentioned above. The adoption of the major street plan has secured platting jurisdiction in the entire map area.

Staff is asking the City Council and Planning Commission to review and discuss the future land use map. Staff will record desired changes and have SECOG prepare a final draft. The Planning Commission will hold a public hearing for its adoption and inclusion in the Comprehensive Plan on February 28th with the City Council conducting a hearing on March 7th.

Legend

- Joint Jurisdiction Area
- City Limits (2010)
- Section Boundaries
- Roads
- Railroad

N
W E
S

0 1,6253,250 6,500 9,750 13,000 Feet

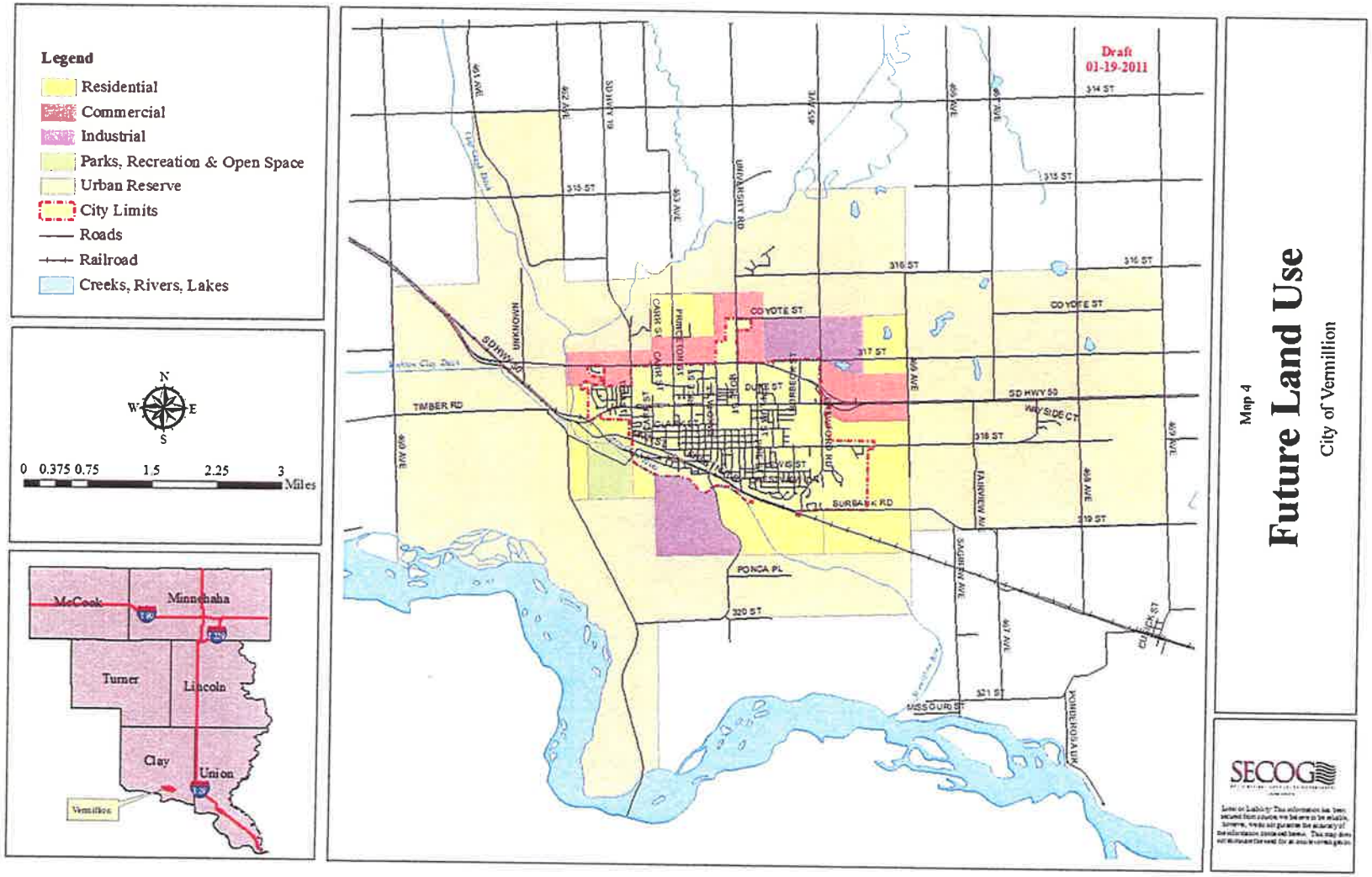
Map 1

Joint Jurisdiction Area

City of Vermillion

SECOG

Limit on Liability: This information has been secured from sources we believe to be reliable, however, we do not guarantee the accuracy of the information contained herein. This map does not eliminate the need for an onsite investigation.


Legend
Residential
Commercial
Industrial
Parks, Recreation & Open Space
Urban Reserve
City Limits
Roads
Railroad
Creeks, Rivers, Lakes
N
W
E
S
0 0.375 0.75 1.5 2.25 3
Miles
McCook
Minnehaha
Turner
Lincoln
Clay
Union
Vermillion
Draft
01-19-2011
314 ST
315 ST
316 ST
317 ST
318 ST
319 ST
320 ST
321 ST
COYOTE ST
SD HWY 50
TIMBER RD
SURBANK RD
PONCA PL
MISSOURI ST
UNIVERSITY RD
SD HWY 19
SAGINAW AVE
FAIRVIEW AVE
PONDEROSA DR
CLINCK ST
Map 4
Future Land Use
City of Vermillion
SECOG

Council/Planning Commission Agenda Memo

From: Andy Colvin, Assistant to the City Manager

Meeting: February 8, 2011

Subject Education Session – Joint Jurisdictional Ordinance

Presenter: Andy Colvin/Toby Brown

Background: The City County planning committee has been working to draft zoning regulations for the area within 1 ½ to 2 miles outside of City limits. The current Extraterritorial Zoning Ordinance, which extends 3 miles outside of City limits, was adopted over 40 years ago and is outdated and difficult to interpret, much like the City zoning ordinance prior to the revision in 2008. The ordinance has a long history of discussion between the City and County that dates back to 1999. In 2010 the City Council determined that a working group composed of City and County elected officials and planning commissioners would work through areas of disagreement and present an ordinance for County and City adoption. The City representatives are Howard Willson, Jenny French, Matt Fairholm, and Don Forseth. The County representatives are Jerry Wilson, Dusty Passick, Melvin Walz, and Paul Bliss.

The draft ordinance was prepared with the following facts in mind:

- State law has been changed and Cities are no longer able to exercise blanket zoning authority outside of City limits without the express consent of the County Commission. Authority can be granted to the City if the County 1) relinquishes zoning control to the City by ordinance or 2) enters into a joint jurisdictional agreement with the City. Prior to some major changes in the 1970s, Cities could exercise zoning control without the County Commission's approval.
- The current extraterritorial ordinance is outdated and does not address many types of uses appropriately.
- The City and the County have a vested interest in development that takes place in and around Vermillion. Representatives from both jurisdictions have agreed that scattered development on the outskirts of Vermillion is neither desirable nor affordable – development should take place in and adjacent to the City of Vermillion where utilities and infrastructure can be provided.

Discussion: The draft ordinance is very similar to the City zoning ordinance and contains many of the same uses. Agricultural uses are permitted to allow existing landowners to continue their operations, while at the same time recognizing some uses as harmful to the City. Staff summarized each district and provided examples of potential uses below.

- **Zoning Map/Joint Jurisdictional Boundary** – The proposed joint jurisdictional map extends approximately 1 ½ to 2 miles outside of City limits. The City Council and Planning Commission representatives strongly advocated pushing the boundaries further on the highways and major transportation corridors. The City and County will exercise joint zoning control on all uses within the boundary. Both the City Council and County Commission must agree in order for a change to take place. The ordinance provides that should the City annex land, the joint jurisdictional boundary shall be reviewed such that the area of joint jurisdiction will not be less than what existed prior to the annexation.

- **Chapter 3: A-1 Agricultural District** - The goal of this district is to preserve agricultural lands immediately beyond the City's boundary and the growth area. Permitted uses include, but are not limited to agriculture (farming activities), greenhouses, farm dwellings, and neighborhood utility facilities. Conditional uses include single-family dwellings, golf courses, firework sales, sanitary landfills, cemeteries, animal feeding operations and bed and breakfast facilities. The lot area requirement for residential uses is two acres for every ¼ ¼, which is meant to avoid dense development and subdivision of land. It should be noted that the committee had discussed in a previous meeting that concentrated animal feeding operations should be very limited in the joint jurisdictional area. As you will see in the allowed uses, only small operations are allowed. Vermillion does not have a parallel district.

- **Chapter 4: RR Rural Residential District** - This chapter provides for more dense, urban-type residential development, similar to what you would see in the City. The ultimate goal is to see this development within City limits; however, something should be provided for in the joint jurisdictional area in such a way that it can be incorporated into the City as smoothly as possible. Residential lots are limited to a minimum of one acre in size, with a reduction to 7,500 square feet if the area can be served by sanitary sewer. The City subdivision ordinance will govern development outside of the City—the revised version includes a provision for lot placement so land can be further subdivided in the case of annexation. Permitted uses include single-family dwellings, churches, schools, and libraries. Some conditional uses include bed & breakfast establishments group daycares, and golf courses. These are all currently permitted within City limits. Attached multi-family dwellings are not allowed in the joint jurisdictional area. Vermillion's parallel district is the R-1 single family residential district. ***Note:*** After talking with SECOG, it was decided to recommend eliminating manufactured home parks and subdivisions from the ordinance altogether. The reason behind this is that these facilities should be licensed and inspected. The City currently performs these activities and provides for mobile home parks in City limits.

- **Chapter 5: C Commercial District** - This district provides for commercial uses with the intent to locate such uses along major intersections and transportation corridors. Permitted uses include retail trade or service, offices, hotels/motels, hospitals, motor vehicle sales, lumberyards and bus terminals and are all currently allowed in Vermillion. Unlike Vermillion, it also permits museums, libraries, churches, greenhouses, and wholesale trade & service in this area. Parallel conditional uses include gas station, assisted living facility, mortuary with crematorium, drive-in theatres, adult orientated business and campgrounds. Light manufacturing is allowed by conditional use. There is no lot area requirement for this district. This district runs parallel to Vermillion's GB General Business District.

- **Chapter 6: LI Light Industrial District -** This district provides for light manufacturing/wholesale activities that do not depend on frequent personal visits from customers or clients. Permitted uses include wholesale trade, light manufacturing, frozen food lockers, warehousing, and automobile storage yards. Conditional uses include storage facility, Ready-mix plants, and wind energy conversion systems. There are no lot area requirements for this district. This district runs parallel to Vermillion's GI General Industrial District.

- **Chapter 7: HI Heavy Industrial District -** This district provides for heavy industrial uses that make bad residential neighbors and are not generally associated with residential, office, or institutional establishments. Permitted uses include contractor's shop/storage yards, fruit and vegetable processing, truck repair, sales and service. Conditional uses include general manufacturing, stockyards, rendering, tank farms, grain terminals, solid waste transfer facilities, and salvage yards. There are no lot area requirements for this district. This would be parallel to Vermillion's HI Heavy Industrial District.

- **Chapter 8: NRC Natural Resource Conservation District -** The purpose of this district is to protect natural areas, drainage courses and to prevent pollution of aquifers. This is parallel to Vermillion's NRC district. Unlike Vermillion, cemeteries and farm dwellings have been permitted as conditional uses. The minimum lot area requirement is one acre unless the structure is connected to a centralized wastewater collection system. This would be parallel to Vermillion's NRC Natural Resource Conservation District with a few exceptions.

- **Chapter 9: PD Planned Development District -** This district essentially mirrors that which you would find in the City zoning ordinance. This is a "customized" development approach that takes a complex project through a network of public review proceedings and allows the governing bodies and planning commissions to vary district regulations in certain situations, such as redevelopment, or development on land that is normally undesirable. There are no pending discussions pertaining to this district.

- **Chapter 10: APO Aquifer Protection Overlay District** – This district protects water resources and is superimposed over all districts where applicable. The City does not have a similar district.

- **Chapters 11-19:** These chapters cover other regulations such as parking, procedures for conditional uses, changes of zoning, and variances, as well as building permits. Staff prepared a series of flow charts to explain the procedures for these items and will present the charts at the meeting.

Other items to be determined – The committee has completed most of the work to present a draft to the governing bodies. An additional item that will need to be addressed is the comprehensive rezoning of the joint jurisdictional area. A majority of the land will remain AG with a few exceptions. There are subdivisions that currently exist that will need to be zoned RR to avoid several properties from being considered non-conforming uses.

The City has brought up the issue of building inspections on a number of occasions. Right now the City does all building inspections and permitting within the extraterritorial area. The proposed ordinance provides that the County will take care of all building

inspections and issue all permits within the joint jurisdictional area. This also means that the County would have to adopt the building code, which has been discussed by the County Commission; although to staff's knowledge no formal action to adopt a code has taken place. A fair question for the Planning Commission and City Council is whether or not it is wise to adopt an ordinance that grants building inspection authority to an entity that has no formal code in place to enforce inspections or grant permits.

Conclusion/Recommendations: Staff is asking the City Council and Planning Commission to review and discuss the joint jurisdictional ordinance and map, and offer any comments or questions. At this point, staff is looking at beginning the adoption process in March.

Joint Zoning Regulations

for

Clay County and the City of Vermillion

Prepared by the South Eastern Council of Governments at the direction of the Clay County Planning Commission, City of Vermillion Planning Commission, Clay County Commission and the Vermillion City Council

Table of Contents

TITLE AND APPLICATION **1**
1.01 Title 1
1.02 Purpose 1

DISTRICTS AND BOUNDARIES **2**
2.01 Boundaries of Joint Jurisdiction 2
2.02 Districts Designated 2
2.03 Incorporated by Reference 2
2.04 Boundaries of District Maps 3
2.05 Rules Where Uncertainty as to Boundaries Arises 3
2.06 Vacation of Streets and Roads 3
2.07 Classification of Land Coming Within the Joint Zoning Jurisdiction 3

A-1: AGRICULTURAL DISTRICT **4**
3.01 Permitted Uses 4
3.02 Conditional Uses 4
3.03 Lot and Yard Regulations 5

RR: RURAL RESIDENTIAL DISTRICT **6**
4.01 Permitted Uses 6
4.02 Conditional Uses 6
4.03 Lot and Yard Regulations 7

C: COMMERCIAL DISTRICT **8**
5.01 Permitted Uses 8
5.02 Conditional Uses 9
5.03 Lot and Yard Regulations 10

LI: LIGHT INDUSTRIAL DISTRICT **11**
6.01 Permitted Uses 11
6.02 Conditional Uses 12
6.03 Lot and Yard Regulations 12

HI: HEAVY INDUSTRIAL DISTRICT **13**
7.01 Permitted Uses 13
7.02 Conditional Uses 14
7.03 Lot and Yard Regulations 14

NRC: NATURAL RESOURCE CONSERVATION DISTRICT **16**
8.01 Permitted Uses 16
8.02 Conditional Uses 16
8.03 Lot and Yard Regulations 17

PD: PLANNED DEVELOPMENT DISTRICT **18**
9.01 Intent 18
9.02 Procedure 18
9.03 Initial Development Plan 19

9.04 Final Development Plan 20
9.05 Amendments 21
9.06 Planned Development Districts 22

APO: AQUIFER PROTECTION OVERLAY DISTRICT 23
10.01 Purpose 23
10.02 Establishment / Delineation of an Aquifer Protection Overlay District 23

ADDITIONAL USE REGULATIONS 27
11.01 Visibility at Intersections and Driveways 27
11.02 Accessory Buildings and Uses 27
11.03 Off-Street Parking 28
11.04 Off-Street Loading Requirements 30
11.05 On-Premise Signs 30
11.06 Billboard Signs 30
11.07 Fences 30
11.08 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities 31
11.09 Reserved 32
11.10 Home Occupations 32
11.11 Manufactured Homes 32
11.12 Bed and Breakfast Establishments 33
11.13 Wind Energy Conversion Systems 34
11.14 Animal Feeding Operations and Concentrated Animal Feeding Operations 40

ADJUSTMENTS TO YARD REGULATIONS 46
12.01 Adjustment to Front Yard Requirements 46
12.02 Adjustment to Side Yard Requirements 46
12.03 Projection From Buildings 46

NONCONFORMING AND NONSTANDARD USES 47
13.01 Purpose and Intent 47
13.02 Continuation of Nonconforming Uses 47
13.03 Use Becoming Nonconforming by Change in Law or Boundaries 47
13.04 Change of Nonconforming Use 47
13.05 Extension or Enlargement 47
13.06 Restoration After Damage 48
13.07 Discontinuance of Nonconforming Use 48
13.08 Effect on Use Which is Illegal under Prior Law 48
13.09 Continuation of Nonstandard Uses 48

AMENDMENTS AND CHANGE OF ZONE 49
14.01 Application for Zoning Amendment 49
14.02 Fees 49
14.03 Hearing by Planning Commissions 49
14.04 Hearing by Board of County Commissioners and City Council 49

BOARD OF ADJUSTMENT 51
15.01 Establishment 51
15.02 Operational Procedure 51
15.03 Appeals 51

15.04 Variances 51
15.05 Application to the County for Variance 52
15.06 Fees 52
15.07 Hearing 52
15.08 Appeals from Decision of Board 52
15.09 Limitations 53

CONDITIONAL USE PERMITS 54
16.01 Conditional Uses 54

FEES 58
17.01 General Regulations 58
17.02 Change of Zone 58
17.03 Planned Development District 58
17.04 Major Amendment 58
17.05 Minor Amendment 58
17.06 Minimal Amendment 58
17.07 Conditional Use 58
17.08 Board of Adjustment 59

GENERAL PROVISIONS 60
18.01 General Regulations 60
18.02 Building Permits Required 60
18.03 Enforcement and Administration 60
18.04 Site Plan 61
18.05 Violation and Penalty 62
18.06 Warning and Disclaimer of Liability 62
18.07 Interpretation, Abrogation, and Severability 62
18.08 Saving Clause 63
18.09 Purpose of Catch Heads 63
18.10 Effective Date 63

DEFINITIONS 64
19.01 Purpose 64
19.02 Definitions 64

1

TITLE AND PURPOSE

1.01 Title

These regulations shall be referred to as the Joint Zoning Regulations for the Joint Jurisdictional Area of Clay County and the City of Vermillion.

1.02 Purpose

These regulations have been based upon the following land use regulatory tools: 1) the City of Vermillion Year 2020 Comprehensive Plan; 2) the Clay County 2021 Comprehensive Plan. All of the aforementioned land use regulatory tools are in conformance with Chapters 11-2, 11-4, and 11-6 of the South Dakota Codified Laws. These regulations shall establish a common working relationship between Clay County and the City of Vermillion to carry out the goals and objectives of the plan as adopted by the County and City, but especially to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration or scattering of population; and to encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provisions of transportation, roads, water supply, drainage, sanitation, education, recreation, or other public requirements. The regulations are intended to preserve and protect existing property uses and values against adverse or unharmonious adjacent uses outside the corporate boundaries of the City of Vermillion.

2

DISTRICTS AND BOUNDARIES

2.01 Boundaries of Joint Jurisdiction

A. The Clay County/Vermillion joint zoning and platting jurisdiction geographic area shall be graphically portrayed by the adopted map boundary, hereby adopted by reference and declared to be a part of this ordinance:

B. Before any territory may come under the jurisdiction of these regulations, the boundary of the joint zoning and platting jurisdiction shall be amended by ordinance adopted by the County Commission and City Council in compliance with South Dakota Codified Laws. Provisions for the periodic review and expansion of the joint jurisdictional area shall take place when annexation takes place; or if development warrants.

2.02 Districts Designated

In order to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of the yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes; the joint zoning jurisdiction is hereby divided into the following districts:

A-1	Agricultural	HI	Heavy Industrial
RR	Rural Residential	NRC	Natural Resource Conservation
C	Commercial	PD	Planned Development
LI	Light Industrial		

The following districts shall be designated as zoning overlay districts, imposing special regulations on the properties that fall within these overlay districts without abrogating the requirements imposed by the underlying land use district regulations:

APO Aquifer Protection Overlay

2.03 Incorporated by Reference

The following are hereby adopted and incorporated by reference:

A. The official zoning map(s) of the area of joint jurisdiction, together with all the explanatory matter thereon and attached thereto, is hereby adopted by reference and is declared to be a part of these regulations. The maps shall be signed by the Chairman of the Board of County Commissioners and the Mayor of Vermillion and filed with the Clay County Auditor and Vermillion Finance Officer.

B. The Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of these regulations. Areas shown as Zone A on the Flood Insurance Rate Map but which are zoned A Agricultural on the zoning map shall be governed by the provisions of the NRC Natural Resource Conservation District.

C. The approved plans submitted in conjunction with any Planned Development are hereby adopted by reference and declared to be a part of these regulations.

2.04 Boundaries of District Maps

The boundaries of the districts are shown upon the maps which have been made a part hereof by reference. That part of the maps designating the different districts and their boundaries and that part of the legend designating the symbols for each district shall have the same force and effect as if they were all fully set forth herein. Other notations and references thereon are for information only.

2.05 Rules Where Uncertainty as to Boundaries Arises

Where uncertainty exists with respect to the boundaries of the various districts shown on the district map accompanying and made a part of these regulations by reference, the following rules apply:

A. Boundaries indicated as approximately following lot lines, city lines or county lines shall be interpreted to follow such platted lot lines, city lines or county lines.

B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks.

C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines.

D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustments, as established in Chapter 14, shall interpret the district boundaries.

2.06 Vacation of Streets and Roads

Whenever any street, road, or other public way is vacated, the zoning district adjoining each side of such street, road, or other public way is extended to the center of such vacation; and all area included in the vacation shall then and henceforth be subject to the appropriate regulations of the extended district.

2.07 Classification of Land Coming Within the Joint Zoning Jurisdiction

All land coming within the jurisdiction of these regulations shall be based upon existing zoning classification, pursuant to the Extraterritorial Zoning Ordinance, until otherwise changed.

3

A-1: AGRICULTURAL DISTRICT

The purpose of this district is to provide for a vigorous agricultural industry by preserving for agricultural production those prime agricultural lands beyond the area of planned urban development. It is recognized that because of the nature of both agricultural activities and residential subdivisions, that these two uses are generally poor neighbors and therefore the concentration of housing in the A-1 Agricultural District shall be discouraged.

3.01 Permitted Uses

Permitted Uses	Applicable Standards
Agriculture	11.01
Farm Dwelling, Single-Family	11.01, 11.03, 11.05 and not within an identified floodplain area
Historical Sites	11.01
Neighborhood Utility Facility	11.01, 11.03, 11.05
Greenhouses and Nurseries	11.01, 11.03, 11.05 and provided there is no retail sale of products conducted on the premises.
Parks	11.01, 11.03, 11.05
Shelterbelts	11.01
Railroad Right-of-Way	Including a strip of land with tracks and auxiliary facilities for track operation, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, power houses, interlocking towers, and fueling, sanding and watering stations.
Billboard Signs	11.01, 11.06
Fences	11.01, 11.07
Electrical Substation	11.01 An opaque screen, 6 feet in height located at all setback lines.
Roadside Stands	11.01, 11.05 Subject to the seasonal sale of farm products, which are produced upon the premises.
Accessory Buildings and Uses (i.e. garage, shed)	11.01, 11.02 (see definition)

3.02 Conditional Uses

Conditional Uses	Applicable Standards
Single-Family Dwelling	11.01, 11.03, 11.05, 16.01 and not within an identified floodplain area
Cemetery	11.01, 11.05, 16.01 and not within an identified floodplain area. At least 2 acres in size and adequate road system within cemetery.
Wireless Communication Facility	11.01, 11.08, 16.01 and not within an identified floodplain area
Bed and Breakfast	11.01, 11.03, 11.05, 11.12, 16.01
Home Occupation	11.01, 11.03, 11.05, 11.10, 16.01
Agribusiness	11.01, 11.03, 11.04, 11.05, 16.01

Conditional Uses	Applicable Standards
Veterinarian Clinic	11.01, 11.03, 11.05, 16.01 and located on a tract of land not less than ten (10) acres and that no treatment rooms or pens for animals shall be maintained closer that two hundred (200) feet to any property line.
Golf Course	11.01, 11.03, 11.05, 16.01
Rock, Sand, and Gravel Extraction	11.01, 11.05, 16.01
Small Concentrated Animal Feeding Operation	11.01, 11.04, 11.05, 11.14, 16.01
Airport/heliport	11.01, 11.03, 11.05, 16.03
Fireworks Sales	11.01, 11.05, 16.03 Subject to the length of sales not exceeding nine (9) days.
Private Recreation Facility	11.01, 11.03, 11.05, 16.01
Sanitary Landfill, Solid Waste Transfer Station, Rubble Dump, Commercial Compost Site	11.01, 11.03, 11.05, 16.01
Public Utility Facility	11.01, 11.03, 11.05, 16.01
Public Service Facility	11.01, 11.03, 11.04, 11.05, 16.01
Trap Shoot, Rifle Range, Pistol Range	11.01, 11.03, 11.05, 16.01
Broadcast Tower	11.01, 16.01 Subject to being located at least 300 feet from a residential district.
Wind Energy Conversion System	11.01, 11.13, 16.01
Manufactured Home	11.11(C), 16.01

3.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). Where a side yard or rear yard is required, half of the required yard must be maintained as a landscaped area.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	2 acres	75 feet	30 feet	8 feet	25 feet	35 feet

Exceptions

1. See Adjustment to Yard Regulations (Chapter 12) for specific exceptions.

4

RR: RURAL RESIDENTIAL DISTRICT

The purpose of this district is to protect a vigorous agricultural industry by limiting the areas in which the RR Rural Residential District can be used. The RR Rural Residential District, where permitted, shall generally be located where provisions can be made to adequately handle the sewage disposal, where the value of the land for agricultural use is marginal, and where the water supply, roads and emergency services are easily and economically available.

4.01 Permitted Uses

Permitted Uses	Applicable Standards
Single-Family Dwelling	11.01, 11.03, 11.05
Neighborhood Utility Facility	11.01, 11.03, 11.05
Church or Similar Place of Worship	11.01, 11.03, 11.05
School	11.01, 11.03, 11.05
Library	11.01, 11.03, 11.05
Fences	11.01, 11.07
Accessory Buildings & Uses	11.01, 11.02 (see definition)

4.02 Conditional Uses

Conditional Uses	Applicable Standards
Manufactured Home	11.01, 11.03, 11.05, 11.11, 16.01
Group Daycare	11.01, 11.03, 11.05, 16.01
Group Home	11.01, 11.03, 11.05, 16.01
Day Care Center	11.01, 11.03, 11.05, 11.07, 16.01 Adequate and safe playground area with a fence 4 feet high. A safe pickup and drop off area must be provided for the children.
Home Occupation	11.01, 11.03, 11.05, 11.10, 16.01
Bed and Breakfast	11.01, 11.03, 11.05, 11.12, 16.01
Golf Course	11.01, 11.03, 11.05, 16.01
Public Utility Facility	11.01, 11.03, 11.05, 16.01
Electrical Substation	11.01, 11.05, 16.01 Subject to an opaque screen 6 feet in height located at all setback lines.
Cemetery	11.01, 11.05, 16.01 & not within an identified floodplain area. Subject to site being at least 2 acres in size and adequate road system within cemetery.
Wireless Communication Facility	11.01, 11.08, 16.01
Wind Energy Conversion System	11.01, 11.13, 16.01

4.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). Where a side yard or rear yard is required, half of the required yard must be maintained as a landscaped area.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre see #1	75 feet	30 feet see #2	8 feet see #3	25 feet	35 feet

Exceptions

1 Where a central sanitary sewer is available, the required lot area may be reduced to 7,500 square feet.

2 The front yard on all major arterial streets or section line roads shall be 50 feet.

3 There shall be a required front yard on each street of a double frontage lot.

4 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

5

C: Commercial District

The purpose of this district is to provide for a wide variety of commercial uses generally located at major intersections and along major roads. This district will include general commercial uses requiring large land areas, extensive retail operations, and outdoor display. The C Commercial District, where permitted, shall generally be located where provisions can be made to adequately handle the sewage disposal, where the value of the land for agricultural use is marginal, and where the water supply, roads and emergency services are easily and economically available.

5.01 Permitted Uses

Permitted Uses	Applicable Standards
Retail Trade or Service	11.01, 11.03, 11.04, 11.05
Office	11.01, 11.03, 11.04, 11.05
Personal Service	11.01, 11.03, 11.04, 11.05
Hotel/Motel	11.01, 11.03, 11.04, 11.05
Printing Plant	11.01, 11.03, 11.04, 11.05
Hospital/Clinic	11.01, 11.03, 11.04, 11.05
Public Utility Facility	11.01, 11.03, 11.04, 11.05
Public Service Facility	11.01, 11.03, 11.04, 11.05
Funeral Home/Mortuary	11.01, 11.03, 11.04, 11.05
Private Club	11.01, 11.03, 11.04, 11.05
Restaurants	11.01, 11.03, 11.04, 11.05
Car Wash	11.01, 11.03, 11.04, 11.05 Five storage spaces for each bay beyond off-street parking requirements and the water from the car wash contained on the site.
Motor Vehicle Sales, Display, and Service	11.01, 11.03, 11.04, 11.05 Subject to screening of all outdoor storage of parts from view.
Lumberyard	11.01, 11.03, 11.04, 11.05 Subject to screening of all outdoor storage from view when abutting a residential district.
Farm Store, Feed Store	11.01, 11.03, 11.04, 11.05
On/Off-Sale Alcoholic Beverage Establishment	11.01, 11.03, 11.04, 11.05
Commercial Recreation Facility	11.01, 11.03, 11.04, 11.05
Motor Vehicle Repair Shop	11.01, 11.03, 11.04, 11.05 Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired.
Electrical Substation	11.01 An opaque screen, 6 feet in height, located at setback lines.
Broadcast Tower	11.01, Subject to being located at least 300 feet from a residential district.
Bus/Truck Terminal	11.01, 11.03, 11.04, 11.05 Subject to being located at least 300 feet from a residential district to minimize effects of diesel fumes and noise.

Permitted Uses	Applicable Standards
Museums	11.01, 11.03, 11.04, 11.05 All parking lots being 8 feet from all residential properties.
Libraries	11.01, 11.03, 11.04, 11.05 All parking lots being 8 feet from all residential properties.
Church or Similar Place of Worship	11.01, 11.03, 11.04, 11.05 All parking lots being 8 feet from all residential properties.
Day Care Center	11.01, 11.03, 11.04, 11.05 Adequate and safe playground area with fence 4 feet high. A safe pickup and drop off area must be provided for the children.
Greenhouse/Nursery	11.01, 11.03, 11.04, 11.05
Veterinarian Clinic	11.01, 11.03, 11.04, 11.05
Wholesale Trade and Service	11.01, 11.03, 11.04, 11.05
Contractor's Shop and Storage Yard	11.01, 11.03, 11.04, 11.05

5.02 Conditional Uses

Conditional Uses	Applicable Standards
Motor Vehicle Service Station/Gas Dispensing Station	11.01, 11.03, 11.04, 11.05, 16.01
Assisted Living Facility	11.01, 11.03, 16.01 Applicant must provide copy of Department of Health license.
Nursing Home	11.01, 11.03, 16.01 Applicant must provide copy of Department of Health license.
Mortuary with Crematorium	11.01, 11.03, 11.04, 11.05, 16.01
Wireless Communication Facility	11.01, 11.03, 11.05, 11.08, 16.01
Telecommunications Tower	11.01, 11.03, 11.05, 11.08, 16.01
Drive-in-Theater	11.01, 11.03, 11.04, 11.05, 16.01 Located in such a manner that the screen will not deprive adjacent properties of solar access. Lighting of the theaters shall not reflect into adjacent residential areas.
Campground	11.01, 11.03, 11.04, 11.05, 16.01 Lot must contain at least 2,000 square feet. Access road on the campground site shall have a width of 14 feet for one way traffic and 20 feet for two way traffic.
Kennel	11.01, 11.03, 11.04, 11.05, 16.01
Commercial Parking Lots/Parking Ramps	11.01, 11.03, 11.05, 16.01
Storage Facility	11.01, 11.03, 11.05, 16.01
Light Manufacturing	11.01, 11.03, 11.04, 11.05 Gross square footage of facility shall not exceed 10,000 square feet. No outdoor storage of materials.
Adult Uses	11.01, 11.03, 11.04, 11.05, 16.01 & SDCL Ch. 11-12
Wind Energy Conversion System	11.01, 11.13, 16.01

5.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). Where a side yard or rear yard is required, half of the required yard must be maintained as a landscaped area.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	N/A	0 to 50 feet	15 feet see # 1	5 feet see # 2, # 3	5 feet see # 1, # 4	45 feet
All Uses	N/A	51 to 100 feet	20 feet see # 1	5 feet see # 2, # 3	5 feet see # 1, # 4	45 feet
All Uses	N/A	101 or more feet	25 feet see # 1	5 feet see # 2, # 3	5 feet see # 1, # 4	45 feet

Exceptions

1 There shall be a required front yard on each street side of double frontage lots.

2 There shall be a required front yard on each street side of a corner lot.

3 A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.

4 A rear yard of 20 feet shall be required where a lot is adjacent to or abuts a residential district.

5 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

6

LI: LIGHT INDUSTRIAL DISTRICT

The purpose of this district is to provide for a number of light manufacturing, wholesale, warehousing, and service uses in an attractive industrial park like setting. These uses do not depend on frequent personal visits from customers or clients and do not include residences, apartments, or commercial uses which are primarily retail in nature. It is the intent of this district to provide high amenity industrial development along the major roads, while allowing for slightly heavier development in the interior of the industrial areas. The LI Light Industrial District, where permitted, shall generally be located where provisions can be made to adequately handle the sewage disposal, where the value of the land for agricultural use is marginal, and where the water supply, roads and emergency services are easily and economically available.

6.01 Permitted Uses

Permitted Uses	Applicable Standards
Wholesale Trade	11.01, 11.03, 11.04, 11.05
Light Manufacturing	11.01, 11.03, 11.04, 11.05
Contractor's Shop and Storage Yard	11.01, 11.03, 11.04, 11.05
Public Utility Facility	11.01, 11.03, 11.04, 11.05
Office	11.01, 11.03, 11.04, 11.05
Frozen Food Locker	11.01, 11.03, 11.04, 11.05
Printing Plant	11.01, 11.03, 11.04, 11.05
Motor Vehicle Service Station	11.01, 11.03, 11.04, 11.05
Billboard Signs	11.01, 11.06
Electrical Substation	11.01 Opaque screen, 6 feet in height, located as far back as all setback lines.
Bus/Truck Terminal	11.01, 11.03, 11.04, 11.05 Located 300 feet from a residential district to minimize effects of diesel fumes and noise.
Warehouse, Mini-Warehouse	11.01, 11.03, 11.04, 11.05 The materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials.
Lumberyard	11.01, 11.03, 11.04, 11.05 Subject to screening of all outdoor storage from view when abutting a residential district.
Truck/Bus Wash	11.01, 11.03, 11.04, 11.05 All water from the truck or bus wash being contained on the site.
Truck Repair, Sales, and Service	11.01, 11.03, 11.04, 11.05 Subject to no unscreened outdoor storage of parts.
Farm Store or Feed Store	11.01, 11.03, 11.04, 11.05 Only accessory storage of fertilizer or farm chemicals on the site.
Recycling Collection or Processing Facility	11.01, 11.03, 11.04, 11.05 Screening of all recyclable material from view.
Automobile Storage Yard	11.01, 11.03, 11.04, 11.05 Screening of the storage yard with fence, berm, vegetation or placement on the lot.

Permitted Uses	Applicable Standards
Farm Implement Sales, Display, and Service	11.01, 11.03, 11.04, 11.05 Screening of all outdoor storage of parts from view.
Broadcast Tower	11.01, 11.03, 11.04, 11.05 Located at least 300 feet from a residential district.
Motor Vehicle Repair Shop	11.01, 11.03, 11.04, 11.05 An adequate number of parking spots to store the cars and screen parts and materials from view.

6.02 Conditional Uses

Conditional Uses	Applicable Standards
Wireless Communication Facility	11.01, 11.08, 16.01
Telecommunications Tower	11.01, 11.08, 16.01
Storage Facility	11.01, 11.03, 11.05, 16.01
Ready-Mix Plant	11.01, 11.03, 11.05, 16.01
Wind Energy Conversion System	11.01, 11.13, 16.01

6.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	N/A	75 feet	25 feet see # 1	10 feet see # 1, # 3	20 feet see # 2	45 feet

Exceptions

1 A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.

2 A rear yard of 25 feet shall be required where a lot is adjacent to or abuts a residential district.

3 There shall be a required front yard on each street side of a corner lot.

4 See also adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

7

HI: HEAVY INDUSTRIAL DISTRICT

The purpose of this district is to provide for heavy industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, or institutional establishments. All uses in this district shall comply with any state regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable. The HI Heavy Industrial District, where permitted, shall generally be located where provisions can be made to adequately handle the sewage disposal, where the value of the land for agricultural use is marginal, and where the water supply, roads and emergency services are easily and economically available.

7.01 Permitted Uses

Permitted Uses	Applicable Standards
Wholesale Trade	11.01, 11.03, 11.04, 11.05
Farm Store or Feed Store	11.01, 11.03, 11.04, 11.05
Contractor's Shop and Storage Yard	11.01, 11.03, 11.04, 11.05
Bus/Truck Terminal	11.01, 11.03, 11.04, 11.05
Public Utility Facility	11.01, 11.03, 11.04, 11.05
Frozen Food Locker	11.01, 11.03, 11.04, 11.05
Billboard Signs	11.01, 11.06
Electrical Substation	11.01 An opaque screen, 6 feet in height, must be located as far back as all setback lines.
Warehouse or Mini-Warehouse	11.01, 11.03, 11.04, 11.05 Subject to the materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials.
Bus and Truck Wash	11.01, 11.03, 11.04, 11.05 All water from the truck or bus wash being contained on the site.
Truck Repair, Sales, and Service	11.01, 11.03, 11.04, 11.05 Subject to screening of outdoor storage of parts.
Recycling Collection Facility	11.01, 11.03, 11.04, 11.05 Subject to any outdoor storage of recyclable materials must be within an opaque screened area at least 6 feet in height.
Fruit and Vegetable Canning and Processing	11.01, 11.03, 11.04, 11.05
Automobile Storage Yard	11.01, 11.03, 11.04, 11.05 Screening of the storage yard with fence, berm, vegetation or placement on the lot.
Motor Vehicle Repair Shop	11.01, 11.03, 11.04, 11.05 An adequate number of parking spots to store the cars and screen parts and materials from view.
Recycling Processing Facility	11.01, 11.03, 11.04, 11.05 Any outdoor storage of recyclable materials must be within an opaque screened area at least 6 feet in height and all processing operations must be fully enclosed.
Ready-Mix Plant	11.01, 11.03, 11.05

7.02 Conditional Uses

Conditional Uses	Applicable Standards
General Manufacturing	11.01, 11.03, 11.04, 11.05, 16.01
Wireless Communication Facility	11.01, 11.03, 11.04, 11.05, 16.01
Telecommunications Tower	11.01, 11.03, 11.04, 11.05, 16.01, 19.10
Stockyards/Slaughtering of Animals	11.01, 11.03, 11.04, 11.05, 16.01 Minimize odor impacts on adjacent residential districts.
Distillation of Products	11.01, 11.03, 11.04, 11.05, 16.01
Rendering	11.01, 11.03, 11.04, 11.05, 16.01
Refining	11.01, 11.03, 11.04, 11.05, 16.01
Paper Manufacturing, Smelting, & Boilerworks	11.01, 11.03, 11.04, 11.05, 16.01
Tank Farm; Petroleum Products Terminal	11.01, 11.03, 11.04, 11.05, 16.01
Grain Terminal/Grain Processing	11.01, 11.03, 11.04, 11.05, 16.01
Salvage Yard	11.01, 11.03, 11.04, 11.05, 16.01 Facility shall be sited along an arterial or collector street, setback ½ mile from a residential district, and provide adequate screening around perimeter of site. The owner shall agree to control rodents as a condition of the permit.
Manufacture and Storage of Electric Transformers	11.01, 11.03, 11.04, 11.05, 16.01 Chemicals associated with the transformers will be contained in an acceptable manner.
Mining	11.01, 11.03, 11.04, 11.05, 16.01
Quarry	11.01, 11.03, 11.04, 11.05, 16.01 Subject to the site being located at least 1,000 feet from commercial or residential properties.
Broadcast Tower	11.01, 11.03, 11.04, 11.05, 16.01 Being located at least 300 feet from a residential district.
Solid Waste Transfer Facility	11.01, 11.03, 11.04, 11.05, 16.01 Screening of the storage area with fence, berm, vegetation or placement on the lot.
Airport	11.01, 11.03, 11.04, 11.05, 16.01
Waste Water Treatment Facility	11.01, 11.03, 11.04, 11.05, 16.01
Storage Facility	11.01, 11.03, 11.05, 16.01
Wind Energy Conversion System	11.01, 11.13, 16.01

7.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	N/A	N/A	25 feet see # 4	5 feet see # 1, # 4	5 feet see # 2	55 feet

Exceptions

1 A side yard of 40 feet shall be required where a lot is adjacent to or abuts a residential district.

2 A rear yard of 50 feet shall be required where a lot is adjacent to or abuts a residential district.

3 There shall be a required front yard on each street side of a corner lot.

4 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

8

NRC: NATURAL RESOURCE CONSERVATION DISTRICT

The purpose of this district is to protect natural drainage courses in their capacity to carry run-off water, to limit permanent structures and uses of land in areas subject to flooding, to prevent the pollution of underground water supplies (aquifers), to provide open space and natural areas for recreation, and add to the aesthetic quality of the area.

8.01 Permitted Uses

Permitted Uses	Applicable Standards
Agriculture	11.01
Public Park	11.01, 11.03, 11.05
Public Golf Course	11.01, 11.03, 11.05
Public Recreation Facility	11.01, 11.03, 11.05
Historic Sites	11.01, 11.05
Electrical Substation	11.01, 11.05
Forest Preserve	11.01
Shelterbelts	11.01
Accessory Buildings & Uses	11.01, 11.02 (see definition)

8.02 Conditional Uses

Conditional Uses	Applicable Standards
Cemeteries	11.01, 11.05, 16.01 and not within an identified floodplain area. Site must be at least 2 acres in size and provide an adequate road system within cemetery.
Wireless Communication Facility	11.01, 11.08, 16.01 and not within an identified flood plain area
Commercial Recreation Facility	11.01, 11.03, 11.05, 16.01
Day or Summer Camp	11.01, 11.03, 11.05, 16.01
Rifle and Pistol Range/Trap Shoot	11.01, 11.03, 11.05, 16.01
Private Recreation Facility/Area	11.01, 11.03, 11.05, 16.01
Single-Family Dwelling	11.01, 11.03, 11.05, 16.01 and not within an identified floodplain area
Farm Dwelling	11.01, 11.03, 11.05, 16.01 and not within an identified floodplain area
Bed and Breakfast	11.01, 11.03, 11.05, 11.12, 16.01 and not within an identified floodplain area

Conditional Uses	Applicable Standards
Campground	11.01, 11.03, 11.05, 16.01 and access road on the campground site shall be 14 feet for one way traffic and 20 feet for two-way traffic.
Wind Energy Conversion System	11.01, 11.13, 16.01
Manufactured Home	11.11(C), 16.01

8.03 Lot and Yard Regulations

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre see # 3	125 feet see # 3	30 feet see # 1	30 feet	50 feet	35 feet see # 2

Exceptions

1 The front yard on a major arterial street or section line road shall be 50 feet.

2 There shall be no height limit for accessory farm structures or wind energy conversion systems except in the airport approach zone.

3 The minimum requirements may be reduced if the structure is connected to a centralized wastewater collection system.

9

PD: PLANNED DEVELOPMENT DISTRICT

9.01 Intent

It is the intent of this district to provide flexibility from conventional zoning regulations with increased public review for PD Planned Development District projects in order to:

A. Encourage well-planned, efficient development.

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

C. Encourage the redevelopment of contiguous large lot parcels into an integrated and orderly subdivision pattern, with particular attention to developing an efficient and coordinated network of internal streets.

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

E. Protect sensitive areas and areas with restrictive soil conditions within development areas through clustering of uses on land more suited for building.

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

G. Improve communication and cooperation among the County, cities, townships, land developers, and interested residents in the development of agricultural land and redevelopment of existing areas.

It is not the intent of the PD Planned Development District to accommodate or encourage the development of isolated small tracts where adjoining parcels are not considered within an overall development scheme.

9.02 Procedure

A. Initial Development Plan. When a petitioner wants to request a rezoning to the Planned Development District, it shall be submitted to the Clay County Zoning Administrator, showing the information specified in 9.03 below, a minimum of 30 days prior to the joint meeting of the County and City Planning Commissions at which consideration is desired. The Clay County Zoning Administrator shall provide copies of all submitted application materials to the City of Vermillion Zoning Administrator within five (5) working days of receipt. After the planned development request has been reviewed, the Planning Commissions shall each make recommendations on the requested rezoning. The Board of County Commissioners and City Council shall then each act to approve or deny said request.

This request for rezoning is subject to the requirements for amendment of the zoning regulations specified in Chapter 14. No permit shall be issued within the development until the Final Development Plan is approved and the plat is filed.

B. Final Development Plan. Prior to construction on any lots in the planned development, the petitioner shall present a Final Development Plan showing the information specified in 9.04 below, to the Planning Commissions, who shall have the sole authority to approve, deny, or amend said plan, unless a Major Amendment is required.

The Final Development Plan may be submitted in conjunction with the Initial Development Plan for concurrent approval on any subareas the developer is ready to commit to a final plan. All the information required for both an Initial and Final Development Plan must be shown for the area submitted for concurrent approval, except that the developer may reference the requirements of one of the traditional zoning districts as the development standard for a particular subarea.

C. Amendments.

1. Major Amendments. Major amendments to the Initial and/or Final Development Plan shall be required to be approved as an amendment to the zoning regulations, requiring the Planning Commissions' review, and Board of County Commissioners and City Council approval.

2. Minor Amendments. Minor amendments to the Initial and/or Final Development Plan shall be required to be approved by the Planning Commissions at a hearing. Notice of such hearing shall be given by the posting of a sign on the property.

   Minor amendments to the Initial Development Plan may also be made by the submission and approval of a Final Development Plan which is changed from the approved Initial Development Plan. Any such amendments shall be shown as a change from the Initial Development Plan on the Final Development Plan, and further these changes shall be made on the Initial Development Plan.

3. Minimal Amendments. Minimal amendments to the Final Development Plan shall be submitted to the Clay County Zoning Administrator on a reproducible development plan showing the requested changes. The Clay County Zoning Administrator may then approve such change in writing, if he/she deems it appropriate.

9.03 Initial Development Plan

Upon application for rezoning to the Planned Development District, the petitioner shall present an Initial Development Plan to the Planning Commissions for review, and to Board of County Commissioners and City Council for their approval showing the following information:

A. Project name and legal description.

B. A preliminary subdivision plan.

C. The proposed development scheme showing the following information:

1. The proposed land uses, including the number and type of proposed residential buildings, the proposed number of dwelling units per building, the number and type of any proposed nonresidential buildings and their square footage.

2. The proposed maximum density of the development, which shall not exceed the density allowed in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such densities undesirable.

3. The proposed minimum setbacks which shall be no less than those required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such setbacks undesirable.

4. The proposed maximum height which shall be no greater than that required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such heights undesirable.

5. Proposed design features illustrating compatibility to the surrounding environment and neighborhood.

6. Anticipated subarea development sequence.

9.04 Final Development Plan

Prior to construction on any lots in the Planned Development Zoning District, the petitioner shall present a Final Development Plan to the Planning Commissions for their approval. The Final Development Plan shall show the following information:

A. The subdivision name, the legal description, and the individual project name (if any).

B. Boundaries of the subarea or subareas submitted for approval superimposed on the map of the Initial Development Plan.

C. A subdivision plat of the subarea or subareas submitted for approval.

D. A copy of the written covenants, if any, which petitioner proposes to impose upon all or any area within the District.

E. A scale drawing showing the following information will be required for everything except single-family detached dwelling subareas:

1. Size and location of proposed structures including height and number of units.

2. Calculated floor area for each structure and a generic listing of the uses within said structure.

3. Off-street parking lot arrangement designating all parking spaces, off-street loading spaces, and any outdoor trash container spaces.

4. Any sidewalks, bikeways or other paths.

5. Landscaping plans showing the type and location of any walls or fences, the placement, size and species of any trees or shrubs, and berms in areas that will be sod or seeded.

6. All existing and proposed utilities, drainageways, water courses, and location of above ground existing utilities on adjacent property.

7. Proposed final ground contours.

8. Drainage plan.

9. Existing and proposed uses adjacent to the area.

10. Documentation of the ownership and maintenance responsibility of any common open spaces, structures, or facilities including private streets.

11. Any subareas proposed for multiple residential development will be required to provide an open area for recreation. Said open spaces shall not be included in any required yard, but shall be located in the same subarea it is intended to serve.

12. Proposed parking and loading spaces which shall be in conformance with Chapter 11, except where unique physical, environmental or design characteristics make such requirements undesirable.

13. Proposed on-site wastewater systems and facilities.

14. Unless otherwise specified on the Final Development Plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each subarea as a part of the Final Development Plan. For example: townhouses on Block X shall be developed in conformance with the requirements of the RD Residential District.

9.05 Amendments

A. Major Amendments. The following changes in an Initial and/or Final Development Plan are considered major amendments:

1. Any change in the proposed land uses.

2. Any major change in the street pattern.

3. Any increase in density above that provided for in (B) (5) below.

4. Any major change in proposed landscaping.

5. Any major change in signage.

B. Minor Amendments. The following changes in an Initial and/or Final Development Plan are considered minor amendments:

1. Any minor adjustment in the size or shape of the building envelope (increasing the height or reducing the building setback).

2. Any major decrease in density.

3. Any decrease in the size of required open areas.

4. Any minor change in the street pattern.

5. Any increase in density of a subarea:

   a. Less than 25% for a subarea with less than eight units.

   b. Less than 15% for a subarea with between nine and twenty units.

   c. Less than 8% for a subarea with twenty-one units or more.

6. Any minor change in the number of parking spaces.

7. Any minor change in proposed landscaping.

8. Any minor change in signage.

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

1. Any adjustment of a building within a previously established building envelope.

2. Any minor reduction in density.

3. Any minimal change in landscaping.

4. Any minimal change in signage.

9.06 Planned Development Districts

Those approved development areas within the PD Planned Development District shall be assigned a sequential section number following this Section 9.06, in accordance with the date of approval.

10

APO: AQUIFER PROTECTION OVERLAY DISTRICT

10.01 Purpose

The district is intended to preserve the quality and quantity of the area's water resources so as to ensure a safe and adequate supply of drinking water for present and future generations. Restrictions shall apply to land use activities which have the potential to contaminate water resources, including aquifers in use and those having the potential for future use as a public water supply. The purpose of the district is to prohibit certain uses which pose the greatest threat to groundwater contamination and to impose reasonable and adequate safeguards on other uses which exhibit a potential to contaminate the groundwater. The Aquifer Protection Overlay District is an overlay whose boundaries are superimposed on all districts established by this ordinance. It is not intended that this district interfere with, abrogate, or annul any other rules or regulations of this ordinance, except that if the Aquifer Protection Overlay District imposes a greater restriction than the underlying zoning district regulations, the greater restriction shall apply.

10.02 Establishment / Delineation of an Aquifer Protection Overlay District

The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and the United States Geological Survey. The map only serves as a general guide to the locations and depths of the mapped aquifer units. Boundaries shown are general in nature and may be modified in the future as site/area specific information is obtained. Additional information shall be used whenever available to more precisely determine aquifer locations and depths. Actual site-specific aquifer boundaries and depths may differ from those shown on the map. The mapped boundaries are drawn at the discretion of geologists and hydrologists based on best available information. Site-specific hydro-geologic information may be necessary to verify the location of a proposed use in relation to an underlying shallow aquifer. Any applicant that is identified as being within the aquifer protection overlay zone, as denoted on the map, can provide drilling logs from soil borings on and/or near the site of the proposed use to conclusively prove that it is not located above a shallow/surficial aquifer area. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings will be followed.

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 ten 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.

Permitted Uses

All uses as outlined in the underlying zoning districts may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Conditional Uses

All uses as outlined in the underlying zoning districts may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Prohibited Uses

Animal Feeding Operations (AFO) installed after the adoption of this ordinance
Concentrated Animal Feeding Operations (CAFO) installed after the adoption of this ordinance
Manure storage areas except above ground tanks
Waste Disposal except the Spreading of Solid and Liquid Animal Waste
Unenclosed Storage of Road Salt
Disposal of Snow containing De-icing Chemicals
Disposal of Radioactive Waste
Injection Well (Class V Well)
Cemetery
Junk or Salvage Yard
Sanitary Landfill, Solid Waste Transfer Facility
Petroleum Products Terminal
Manufacture of a Regulated Substance
Land spreading of petroleum contaminated soil
Land spreading or dumping of waste oil
Chemigation
Transmission Facilities designed to transport liquid hydrocarbons or liquid hydrocarbon products

Zone B – Aquifer Secondary Impact Zones

Zone B is the remainder of the mapped shallow/surficial aquifer in the county not included in Zone A. Zone B 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.

Permitted Uses

All uses as outlined in the underlying zoning districts may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Conditional Uses

Small or medium Concentrated Animal Feeding Operations (CAFOs) or Animal Feeding Operations (AFOs) may obtain a conditional use permit provided that site specific borings made to current DENR standards and certified by a South Dakota licensed engineer demonstrate that the proposed site is not located over a shallow/surficial aquifer, and further provided that a SD General Water Pollution Control Permit has been obtained.

Small Animal Feeding Operations (AFOs) with fewer than one-fourth ($1/4^{th}$) the maximum number of animals listed in Table 1. of Section 11.14 (D), are not required to obtain a SD General Water Pollution Control Permit provided that such site specific borings demonstrated that the proposed site is not located over a shallow/surficial aquifer.

All uses as outlined in the underlying zoning districts provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Prohibited Uses

Large Concentrated Animal Feeding Operations (CAFO)
Animal Feeding Operations (AFO) located over a shallow/surficial aquifer
Land spreading of petroleum contaminated soil
Land spreading or dumping of waste oil
Class V injection wells

Performance Standards

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

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

2. Manure storage areas may be permitted in Zone B but must be constructed in conformance with good engineering practices as recommended by the Natural Resource Conservation Service and/or the South Dakota Department of Environment and Natural Resources for Waste Storage Ponds.

3. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one locality in one 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 County Zoning Office.

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 1,000 pounds and/or 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. When pastured animals are concentrated for winter feeding, measures shall be employed to prevent runoff of manure.

6. Discharge of industrial process water on site is prohibited without County Zoning Office approval.

7. Auto service, repair or painting facilities and junk or salvage yards shall meet all State and Federal standards for storage, handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.

8. 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 100 year frequency flood level. For above ground facilities, an impervious dike, above the 100 year flood level and capable of containing 120 percent of

the largest storage volume, will be provided with an overflow recovery catchment area (sump).

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

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

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

c. 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 general public.

d. Agricultural operations are exempted from performance standard 8 unless chemicals stored which are on the Superfund Amendments and Re-authorization Act of 1986 (SARA Title III) extremely hazardous substance list in quantities exceeding the threshold planning quantity at any one time.

9. All abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:67-70, to prevent contamination of groundwater by surface water.

10. The County Zoning Office and the Department of Environment and Natural Resources shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate groundwater.

11. Any Transmission Facilities, permitted in Zone B, designed to transport liquid hydrocarbons or liquid hydrocarbon products that will cross either the Yankton-Clay Ditch, Clay Creek or Vermillion River shall have a pipe wall thickness that exceeds current federal and/or state standards.

11

ADDITIONAL USE REGULATIONS

11.01 Visibility at Intersections and Driveways

A. Intersection safety zones: No monument style sign or other sign with its face less than twelve (12) feet above grade or any fence, wall, shrub or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted or maintained within a triangular area of a corner lot that is included by measuring straight lines along the curb lines at points 40 feet distant in each direction from the intersection of the curbs and a straight line connecting the first two lines. (See Figure 1)

B. Driveway safety zones: No monument style sign or other sign within its face less than ten (10) feet above grade or any fence, wall, shrub, or other obstruction to vision exceeding three feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten feet behind the curb line. (See Figure 1)

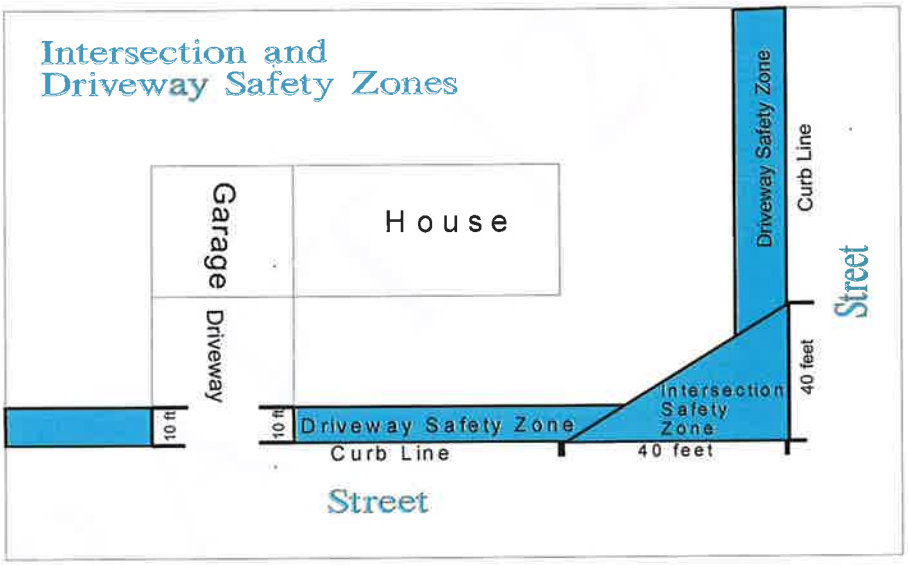


Figure 1

11.02 Accessory Building and Uses

A. Limited Use. Accessory buildings and uses are buildings and uses customarily incidental to any of the permitted uses in the district in which it is located. In the A-1 and RR districts, accessory buildings and uses are limited to:

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

2. A private residential structure used only for the storage of noncommercial vehicles and other related material.

3. Tennis court, swimming pool, garden house, pergola, ornamental gate, barbeque oven, fireplace, and similar uses customarily accessory to residential uses.

4. Home occupation in conformance with Section 11.10.

5. Temporary storage and distribution of seed and similar type products provided the use is located within a farmstead, the product is stored within a completely enclosed building typical of farm buildings and the use is limited to the seasonal sale of products from the premises.

B. Setback Requirements.

1. Accessory buildings which are attached to or located within 10 feet of the main building shall be considered a part of the main building and shall comply with the same yard requirements as the main building.

2. Accessory buildings not a part of the main building, when located in the required rear yard, shall be no closer than 3 feet to the side and rear property lines.

C. Location of Accessory Buildings. Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

1. In all Residential Districts, the total area of accessory buildings shall not exceed 1,200 square feet unless a conditional use permit has been approved.

2. In a Planned Development District, the total area of accessory buildings shall not exceed 1,200 square feet unless a minor amendment has been approved.

D. Family day care.

11.03 Off-Street Parking

A. General Conditions

1. No parking spaces are permitted in the required front or side yard in any residential district except for portions of the front yard necessary for hard surfaced driveways or as otherwise provided in this title.

2. Driveways shall have a minimum width of twelve (12) feet.

3. Parking spaces may be permitted in any required rear yard.

4. Each parking space shall be directly accessible to an access aisle.

5. All parking, loading, and maneuvering and drive areas thereto shall be hard surfaced with asphalt or concrete.

B. Required Parking Spaces

In computing the number of required off-street parking spaces, the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional

spaces result, the parking spaces required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all other districts, see TABLE 1 below:

TABLE 1: Minimum Off-Street Parking & Loading Requirements

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Single-family dwellings	2 spaces for each dwelling unit
Rooming and boarding houses, sororities and fraternities	One (1) parking space for each two hundred (200) square feet of floor area.
Bowling alleys	Four (4) spaces per lane
Church or similar place of worship	1 space for each 4 seats in main seating area
Private club or lodge	One (1) parking space for each three hundred (300) square feet of floor area
Eating and Drinking Places	One (1) space for each three hundred (300) square feet of gross floor area.
Hospitals	1 space for each bed.
Nursing, convalescent and rest homes	1 space for each 3 beds.
High School	Four (4) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
Elementary School	Two (2) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
Auditoriums, theaters and places of pubic assembly	1 space for each 4 seats of design capacity.
Hotels and Motels	One (1) space for each two (2) rental rooms.
Funeral homes	One (1) space for each four (4) seats in the chapel.
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area.
Medical and dental clinics	One (1) space for each two (2) staff members and full-time employees, plus one (1) space for each six hundred (600) square feet of gross floor area.
Manufactured home parks	Two (2) spaces for each.
Industrial uses	One (1) space for each two (2) employees on the maximum working shift.
Service establishments	One (1) space for each three hundred (300) square feet of floor area.
Wholesale and distribution establishments	One (1) space for each two (2) employees on the maximum working shift.

All other uses not specified above shall have minimum off-street parking and off-street loading spaces as determined by the City Council and County Commission.

11.04 Off-Street Loading Requirements

There shall be provided at the time any building is erected or structurally altered, off-street loading spaces for the following uses.

Use	Gross square feet floor area	Number of Off-street loading spaces
Office Buildings	25,000 - 50,000 every additional 75,000	One 14' x 35' space Add one 14' x 35' space
Retail, Service and Trade Establishments and Industrial and Wholesale Commercial	5,000 - 20,000 20,000 - 100,000 Every additional 75,000	One 14' x 35' space Two 14' x 35' spaces Add one 14' x 35' space

11.05 On-Premise Signs

As regulated by Chapter 152 of the 2008 Revised Code of Ordinances of the City of Vermillion, South Dakota.

11.06 Billboard Signs

As regulated by Chapter 152 of the 2008 Revised Code of Ordinances of the City of Vermillion, South Dakota.

11.07 Fences

Regulations regarding fences shall be as follows:

A. Fences up to 4 feet in height may be located on any part of the lot except that such a fence may not be more than 30 percent solid if located within 40 feet of a street intersection, measuring along the property line.

B. Fences up to 6 feet in height may be erected on those parts of a lot that are as far back or farther back from the street than the main building.

Exceptions:

1. Fences up to 6 feet in height may be placed in the side-street-side front yard where:

   a. The side-street-side front yard abuts an arterial street shown on the major street plan.

   b. The side-street-side front yard is not adjacent to a side yard.

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

   d. No driveways exit on to the arterial street.

2. In the C, LI, and HI zoning districts, fences not more than 8 feet in height may be located on any part of a lot other than the required front yard except when such lot is adjacent to a residential district.

11.08 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities

Regulations regarding development of telecommunications towers, antenna structures and wireless communications facilities are intended to encourage the development of a competitive wireless communications marketplace while protecting the health, safety, and welfare of the public and maintaining the aesthetic integrity of the community. The regulations cover the placement, construction, and modification of telecommunications facilities.

A. A minimum distance of 300 feet from the telecommunications tower to any residentially zoned or used property measured from the base of the telecommunications tower to the property line.

B. A minimum distance of ½ mile between telecommunications towers measured from the base of one telecommunications tower to the base of another except when an existing antenna support structure is used to co-locate a wireless communication facility.

C. Building permit shall include documented Federal Communications Commission (FCC) approval prior to permit issuance.

D. The maximum height for telecommunications towers and wireless communications facilities shall not exceed 100 feet for single users or 200 feet for two or more users. When such structure is located in an airport approach zone, Federal Aviation Administration approval will be required prior to permit issuance. Wireless communications facilities on new telecommunications tower structures, antenna support structures, or co-located on existing telecommunications towers shall minimize visual impact on the skyline.

E. The tower shall be constructed in a manner that will make it inaccessible for unauthorized person to climb.

F. Telecommunications towers, antenna support structures and equipment buildings shall be compatible with the architectural style of the surrounding built environment, considering exterior materials, roof form, scale, mass, color, texture and character. Equipment buildings may be located underground where feasible. To prevent undue concentration of telecommunications towers, consideration should be given to co-location as a first alternative.

G. Screening:

1. A telecommunications tower site and tower base adjacent to residential property shall be provided with a fence, wall, berm or shrubbery of sufficient height and of a character necessary to provide adequate visual screening. Where the adjacent property is across public right-of-way from a telecommunications tower site, screening shall be provided in all cases except when the right-of-way is an arterial street.

2. Existing vegetation and grades on the site shall be preserved as much as possible. Natural growth around the property perimeter on large, wooded lots may be considered a sufficient buffer to telecommunications towers. In locations where the visual impact of the telecommunications tower would be minimal, the screening requirement may be reduced or waived.

3. Fencing. Adjacent to a residentially used or zoned property, natural materials shall be used for fence screening. If chain-link fencing is needed for safety and security, additional

landscape screening shall be required outside the chain-link fence to screen public view of the telecommunications tower site.

11.09 Reserved

11.10 Home Occupations

Home occupations are those secondary uses allowed on a premise in conjunction with the following:

A. The use must be conducted entirely within the dwelling unit and shall be conducted entirely by the residents of the dwelling. No other employees shall be hired.

B. The area set aside for a home occupation shall not exceed 20% of the total floor area of the residence, including garages. The permissible floor area includes that space necessary for storage of goods or products associated with the home occupation.

C. Delivery of products to the home for business purposes shall not occur more frequently than twice a week. Delivery by trucks or vehicles not ordinarily utilized for residential deliveries shall be prohibited.

D. Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling.

E. Merchandise offered for sale shall be clearly incidental to the home occupation; provided, however, that, orders may be taken for later delivery off the premises.

F. No toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials shall be stored on the site.

G. Any process that will cause odor, dust, glare, noise, heat or vibration, which would have a negative effect on adjacent properties, would not be allowed.

11.11 Manufactured Homes

A. A park intended for the placement of mobile homes and manufactured homes on rented lots and where the roads are not publicly dedicated shall meet the following minimum standards:

1. A plan shall be prepared showing the layout of the park, including lot lines, the road system and spacing diagram for all structures. Upon approval of the conditional use for the park, the plan shall be filed in the office of the Clay County Zoning Administrator and govern all future development.

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

3. No dwelling or any structure, addition, or appurtenance thereto shall be located less than the minimum setback required by the district in which the park is located. The setback requirements may be changed as part of the approval of the conditional use.

4. Each lot shall abut or face a clear unoccupied space, roadway, or street having a width of at least 34 feet where parking is permitted on both sides, 27 feet in width where parking is

restricted to one side only and 24 feet wide where parking is prohibited, or be connected to such street or roadway by a private driveway not less then 12 feet in width, serving no more than four lots. A hard surfaced material shall be used on all roadways.

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

B. A subdivision for mobile homes and manufactured homes shall be required to meet the subdivision regulations and the density, area and yard requirements for the district in which it is located. The subdivision shall be a minimum of 5 acres in size.

C. A manufactured home may be considered for a conditional use as specified in the district regulations only if the following requirements are met:

1. The age of the structure may not exceed ten (10) years from the date of manufacture.

2. The exterior dimensions of the structure, measured by excluding overhangs, shall not be less than 22 feet.

3. The structure shall be supported by a foundation system consisting of walls along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 42 inches below final grade.

4. The roofing and siding material shall be consistent with the material used in site-built dwellings.

5. The roof pitch shall not be less than a 3 in 12 slope.

D. Manufactured homes which are nonconforming uses may be replaced with another such structure by making application for a conditional use. The compatibility of the replacement dwelling with neighboring dwellings shall be considered in reviewing the conditional use request.

E. A manufactured dwelling may be located temporarily on land owned by the occupant during the construction of a dwelling. Placement shall not occur until construction has actually commenced. The unit shall be removed after one year or upon completion of the dwelling, whichever occurs first.

F. All manufactured homes as defined in Chapter 26.00 must be located in conformance with these requirements.

11.12 Bed and Breakfast Establishments

A. Bed and Breakfasts shall be limited to a residential structure with an overall minimum of 1,800 square feet of floor area. Preference will be given to structures with historic or other unique qualities.

B. 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.

C. 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.

D. Off-street parking requirements shall be one half (1/2) space per guest room and shall be in addition to parking requirements for the principal use. A tandem arrangement of parking spaces stacked end to end on a hard-surfaced driveway may be used for the off-street parking requirements.

E. The length of stay shall not exceed 14 days during any 120-day consecutive period.

F. 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.

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

H. Signs shall not be more than four (4) square feet in area.

11.13 Wind Energy Conversion Systems. The regulations regarding Wind Energy Conversion Systems (hereafter referred to as WECS) shall be as follows:

A. Intent. The intent of regulations for Wind Energy Conversion Systems is to encourage the development of alternative sources of energy while protecting the health, safety and welfare of the public.

B. Accessory WECS. The applicant shall provide to the Zoning Administrator documentation that the tower structure for the system has received a professional structural engineer's certification.

1. Height.

a. The lowest portion of the blade shall be at least thirty (30) feet above the ground.

b. WECS are exempt from the maximum height requirements of this Ordinance.

2. Setbacks.

a. The WECS shall be located in the rear yard only and shall be set back 1.25 times the total WECS height from the property lines.

b. Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted to the Planning Commission for their approval.

3. Illumination and Security.

a. Illumination and markings shall be limited to the requirements of the FAA. There shall be no lights on the tower other than what is required by the FAA. FAA approved red lights shall be used from dusk till dawn. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.

b. Access to the WECS shall be restricted by one or more of the following means:

i. Tower-climbing apparatus located no closer than twelve (12) feet from the ground; or

ii. A locking anti-climb device installed on the tower; or

iii. Enclosure of the tower by a fence at least six (6) feet high with locking portals.

4. Noise. The noise level of the WECS shall not exceed 50 dB(A) as measured at any property line or the WECS shall not create noise beyond the lot containing the WECS which exceeds 60 dB(A) as measured at the nearest habitable dwelling.

5. Signs. One sign, not to exceed four (4) square feet, shall be posted at the base of the tower and display suitable warning of danger to unauthorized persons, the system's manufacturer, and emergency shut-down procedures. No other signage shall be allowed.

6. Electromagnetic interference. If a WECS is installed in any location along or within the major access of an existing microwave communications link, the person desiring to install the WECS 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 WECS.

7. Air space. A WECS shall be located or installed in compliance with the guidelines of the Federal Aviation Administration Regulations with regard to Airport Approach Zones and clearance around VOR stations.

8. Interconnect. The WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company.

C. Commercial WECS. Commercial WECS shall be permitted only on lands zoned AG Agricultural, C Commercial, LI or HI Industrial, or NRC Natural Resource Conservation.

1. Equipment Design.

Tower

The tower(s) shall be of singular tubular steel construction.

Color

The color of the turbines and equipment buildings shall be unobtrusive and non reflective with a galvanized or matte finish. Black blades are acceptable for mitigation of icing.

Height

a. The lowest portion of the blade shall be at least thirty (30) feet above the ground and thirty (30) feet above the highest existing structure within a radius of two hundred fifty (250) feet.

b. WECS are exempt from the maximum height requirements of this Ordinance.

Distribution Lines/Power Poles

All on-site electrical wires associated with the WECS shall be installed underground and maintained in conformance with the National Electric Safety Code or other applicable codes.

2. Setbacks.

   a. WECS shall be set back 2 times the total WECS height from any exterior property line.

   b. WECS shall be set back 1.25 times the total WECS height from the right-of-way line of any public road or highway.

   c. WECS shall be set back 3 times the total WECS height from any habitable structure.

3. Illumination and Security.

   a. Illumination and markings shall be limited to the requirements of the FAA. There shall be no lights on the tower other than what is required by the FAA. FAA approved red lights shall be used from dusk till dawn. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.

   b. Each turbine shall be equipped with a braking system and blade pitch control.

   c. All guy wires shall be distinctly marked.

   d. Signs warning of the electrical and other hazards associated with the WECS shall be posted at the base of each tower.

   e. Anti-climbing devices shall be installed on each tower.

4. Noise.

   The noise level of the WECS shall not exceed 65 dB(A) as measured at any property line.

5. Signs.

   a. No advertising signs or logos shall be permitted on the WECS.

   b. One (1) project identification sign, not to exceed twenty (25) square feet, shall be allowed.

6. Inoperable or Unsafe WECS/Site Reclamation.

   a. Unsafe commercial WECS, inoperable commercial WECS, and commercial WECS for which the permit has expired shall be removed by the owner. All safety hazards created by the installment and operation of the WECS shall be eliminated and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security may be required to cover the cost of removal and site restoration.

b. A Commercial WECS shall be deemed inoperable if it has not generated power for 12 consecutive months.

7. Roads.

a. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WECS project and shall notify the 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 WECS. Where practical all-weather roads shall be used to deliver concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.

The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate governmental body having jurisdiction over approved haul roads for construction of the WECS for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and components. The permittees shall notify the Clay County Zoning Administrator of such arrangements.

b. 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 drainage ways, 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.

c. Private Roads. The permittee shall promptly repair private roads, easements or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

d. Dust Control. The permittees shall utilize all reasonable measures and practices of construction to control dust.

8. 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 Clay County Zoning Administrator. 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 slope 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.

9. Decommissioning/Restoration/Abandonment.

a. Decommission Plan. Within 120 days of completion of construction, the permittees shall submit to the Clay County Zoning Administrator 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 the resources necessary to fulfill these requirements. The Clay County Zoning Administrator may at any time request the permittees to file a report with the Clay County Zoning Administrator describing how the permittees are fulfilling this obligation.

b. Site Restoration. Upon expiration of this permit, or upon earlier termination of operation of the WECS, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet. To the extent possible, the permitttees 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 Clay County Zoning Administrator and shall show the locations of all such foundations. All such agreements between permittees and the affected landowner shall be submitted to the Clay County Zoning Administrator 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 permittee shall advise the Clay County Zoning Administrator of any turbines that are abandoned prior to termination of operation of the WECS. The Clay County Zoning Administrator may require the permittees to decommission any abandoned turbine.

d. Providing Surety. The Zoning Administrator shall decide if it is prudent to include provisions that ensure financial resources will be available for decommissioning. This may include establishing an escrow account into which the project developer/owner will deposit funds on a regular basis over the life of the project. Clay County and Vermillion shall then have access to the escrow account for the explicit purpose of decommission. Financial provisions shall not be so onerous as to make WECS projects unfeasible.

10. Application Contents. Every application for a commercial WECS permit shall include the following information:

a. Name and address of the applicant.

b. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application.

c. A plot and development plan drawn in sufficient detail to clearly describe the following:

i. Physical dimensions and locations of the property, existing structures, and proposed structures.

ii. Location of electrical lines and facilities.

iii. Existing topography.

iv. Proposed grading and removal of natural vegetation.

v. Wind characteristics and dominant wind direction is the direction from which 50 percent or more of the energy contained in the wind flows.

vi. Setbacks.

vii. Ingress and egress identifying the following factors:

1. Location and distance to the nearest publicly maintained road;

2. A description of the access route from the nearest publicly maintained road to include:

a. Road surface material stating the type and amount of surface cover;

b. Width and length of access route;

c. Dust control procedures;

d. A road maintenance schedule or program;

e. Utilization of the property under the requested permit.

d. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection.

e. Specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each WECS model, tower and electrical transmission equipment.

f. A location map to scale of all dwellings within ½ mile of the boundary of the property upon which the WECS are to be located.

g. If the Zoning Administrator determines it is necessary, the application shall be accompanied by a photograph or detailed drawings of each model of WECS including the tower and foundation; and one or more detailed computer or photographic simulation drawing showing the site fully developed with all proposed WECS and accessory structures.

h. An application including any WECS which is located within a 100-year flood plain area, as such flood hazard areas are shown on the maps designated by FEMA, shall be accompanied by a Flood Plain Development Permit.

i. An application including any WECS which is located within two miles of any microwave communications link shall be accompanied by a copy of written notification to the operator of the link.

j. The types and quantities of wastes, fluids, or pollutants that are proposed to be handled, processed, treated, stored, disposed of, emitted, or discharged at each vessel containing fluid and for the entire project.

k. Project schedule.

l. Such additional information as shall be required by the Zoning Administrator.

D. Application Review.

1. Conditional Use Permit. A conditional use permit is required for an Accessory WECS and a Commercial WECS.

2. Technical Issues and Expert Review. Wind Energy Conversion Systems may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Zoning Administrator may require the applicant to pay reasonable costs of a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal will be in the sole discretion of the County.

3. Building Permit. Conditional Use Permit approval of Wind Energy Conversion Systems is separate from the building permit process. Building permits for the construction of facilities can not be issued until the facility is approved through the conditional use permit process.

11.14 Animal Feeding Operations (AFO) and Concentrated Animal Feeding Operations (CAFO)

A. Intent

It is the intent of this section to provide for a viable livestock industry within agriculturally zoned areas of Clay County, protect ground and surface waters, and ensure that animal feeding operations and concentrated animal feeding operations are properly sited, maintained and managed.

B. State General Permit

A General Water Pollution Control Permit shall be obtained from the Department of Environment and Natural Resources for all Concentrated Animal Feeding Operations (CAFOs) sited in Clay County, and certain Animal Feeding Operations (AFOs) sited in Zone B of the Aquifer Protection Overlay District as provided by Chapter 10 of these regulations.

C. Conditional Use Permit

Any person who owns, operates, or proposes to own or operate any animal feeding operation or concentrated animal feeding operation shall obtain a conditional use permit whenever the following occurs: a new operation is proposed where one does not exist; the number of animals confined at an existing permitted operation increases beyond what a current permit allows or the species of confined animals changes; the number of animals confined at a pre-existing operation increases or the species of confined animals changes; a signed complaint is received or made by the county zoning administrator or the South Dakota Department of Environment and Natural Resources and inspection reveals that the operation is in violation of county, state or federal regulations. A conditional use permit for Concentrated Animal Feeding Operations may be approved for whoever applies conditioned on receiving State approval.

D. Number of Animals for Animal Feeding Operations and Concentrated Animal Feeding Operations

For the purpose of these regulations, Animal Feeding Operations and Concentrated Animal Feeding Operations are divided into Large, Medium, and Small operations. The following table defines each type of animal confinement (species) with the number of animals indicated. All animal classifications are based upon the standard animal numbers incorporated into the SD Department of Environment and Natural Resources (SD DENR) General Permit for feedlot operation.

Table 1. Number of Animals to Define Large, Medium, and Small Animal Feeding Operations and Concentrated Animal Feeding Operations

Type of Animal Feeding Operation	**Large Animal Numbers Equal to:**	**Medium Animal Numbers Equal to:**	**Small Animal Numbers Less Than:**
Dairy cows (mature – milked or dry)	700 to 3,500*	200 to 699	200
Veal Calves	1,000 to 5,000*	300 to 999	300
Cattle other than mature dairy cows or veal calves[1]	1,000 to 5,000*	300 to 999	300
Swine (weighing more than 55 pounds)	2,500 to 12,500*	750 to 2,499	750
Swine (weighing less than 55 pounds)	10,000 to 50,000*	3,000 to 9,999	3,000
Horses	500 to 2,500*	150 to 499	150
Sheep or Lambs	10,000 to 50,000*	3,000 to 9,999	3,000
Turkeys	55,000 to 275,000*	16,500 to 54,999	16,500
Laying hens or broilers[2]	30,000 to 150,000*	9,000 to 29,999	9,000
Chickens, other than laying hens[3]	125,000 to 625,000*	37,500 to 124,999	37,500
Laying hens[3]	82,000 to 410,000*	25,000 to 81,999	25,000
Ducks[2]	5,000 to 25,000*	1,500 to 4,999	1,500
Ducks[3]	30,000 to 150,000*	10,000 to 29,999	10,000
Geese	30,000 to 150,000*	10,000 to 29,999	10,000

* Imposed cap limit is five times the minimum number of animals for a large operation.
[1] Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.
[2] Animal feeding operation uses a liquid manure handling systems.
[3] Animal feeding operation uses other than a liquid manure handling system.
NOTE: Other animal types not listed in the above table may be considered on a case-by-case basis.

E. Standards for Animal Feeding Operations and Concentrated Animal Feeding Operations

1. Required Minimum Setbacks, Reverse Setbacks and Separation Distances for New and Expanded Animal Feeding Operations, Concentrated Animal Feeding Operations, and Manure Storage. There shall be a minimum setback, reverse setback and separation distance for all new and expanded animal feeding operations, concentrated animal feeding operations, change in operation and manure storage as defined in these regulations. These distances are minimums, and may be increased under the terms of a Conditional Use Permit based on considerations and characteristics of the neighborhood, including but not limited to adjoining

or nearby uses within the same or different districts and prevailing wind direction. For the purpose of this section, the following definitions shall apply:

Reverse Setback – A required minimum separation distance, as specified in these regulations, which begins at the production area and terminates at the proposed structure/use. The required minimum separation distance shall be measured from the closest points of the two respective structures/uses. Reverse setbacks shall be required only when explicitly mandated by this ordinance.

Setback - The required minimum distance from any structure/use to a production area. Setbacks shall be measured from the production area to the structure/use as identified on the "Setback Chart".

	Large	**Medium**	**Small**
Dwellings, Churches or similar places of worship, Schools, Businesses, Cemetery and Public Use Areas	¾ mile	½ mile	¼ mile
Incorporated Municipalities (Vermillion*)	1 mile	1 mile	1 mile
Swine Feeding Operation	1 ¼ miles	¾ mile	½ mile
Public Water Supplies	½ mile	½ mile	¼ mile
Private Shallow Wells	¼ mile	¼ mile	¼ mile
Waters of the State	500 feet	500 feet	500 feet
Federal, State, & County Road ROW	300 feet	200 feet	200 feet
Township Road ROW	300 feet	200 feet	200 feet
Designated 100 Year Flood District	Prohibited	Prohibited	Prohibited
Designated Aquifer Protection District – Zone A	Prohibited	Prohibited	Prohibited
Designated Aquifer Protection District – Zone B	Prohibited	Allowed**	Allowed**

*The Planning Commissions may adjust the setbacks on a site by site basis.
**Allowed provided the use is not prohibited or further regulated by Chapter 10 APO: Aquifer Protection Overlay District.

2. Exemptions from Setbacks, Reverse Setbacks and Separation Distances. If an Applicant wishes to place an Animal Feeding Operation or Concentrated Animal Feeding Operation closer than the separation distances set forth in these regulations, the Applicant can request an Exception for the separation distance from the Planning Commissions. The Planning Commissions may allow an exception from the separation distance provided that the Applicant obtains waivers from the owners of property within the separation distance. Any authorized landowner that is within the separation distance may waive the separation distance through a written instrument to be filed with the Clay County Register of Deeds. This waiver would run with the land.

3. Manure Application Setbacks. The following manure application setbacks apply to Animal Feeding Operations and Concentrated Animal Feeding Operations.

MANURE APPLICATION SETBACKS

CATEGORY	SURFACE OR IRRIGATION APPLIED	INCORPORATED OR INJECTED
Waters of the State	300 feet (lakes) 200 feet (river & stream)	100 feet (lake) 100 feet (river & stream)
Stream & Lakes classified as Drinking Water supplies	1,000 feet	300 feet
Public Roads	25 feet (surface) from right-of-way 300 feet (irrigation)	10 feet from right-of-way
Dwellings	300 feet (surface) 1,000 feet (irrigation)	300 feet
Public Wells	1,000 feet	1,000 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 Ditch or Canal	100 feet	100 feet

4. Fly and Odor Control. Animal Feeding Operations and Concentrated Animal Feeding Operations shall dispose of dead animals, manure, and wastewater in such a manner as to control odors and flies. The Planning Commissions will review the need for control measures on a site specific basis, taking into consideration prevailing wind direction and topography. The permit shall consider the following standards.

   a. Methods to be utilized to dispose of dead animals by burial, burning, rendering, or composting approved by the South Dakota Animal Industry Board. If the dead animal is disposed by rendering, it must occur within seven (7) days from date of death.

   b. Plant adequate trees and shrubs to screen the lagoons or containment structure to help control odors and improve aesthetics.

   c. A grading plan designed to help keep pens and solid waste containment areas dry.

   d. Require a plan that details the removal of manure from open pens as frequently as possible to minimize odor production.

   e. Animal Feeding Operations and Concentrated Animal Feeding Operations may utilize vertical storage systems, deep pit concrete lined holding ponds, or holding ponds with approved impermeable liners for manure storage.

5. The Planning Commissions may request information relating to the operation not contained in these regulations.

6. The Planning Commissions may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which are reasonable and related to the use being controlled.

7. Conditional use permits 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.

8. When considering an application, the Planning Commissions will take into consideration current and past violations relating to Animal Feeding Operations and Concentrated Animal Feeding Operations that the applicant has had an interest in.

9. Change in Ownership. With a change in ownership and completed sale of any AFO or CAFO, the new owner is required to bring the operation's manure management plan and nutrient management plan to current specifications.

10. All Concentrated Animal Feeding Operations shall comply with the South Dakota Department of Environment and Natural Resources manure storage requirements and construction specifications.

11. Water containing waste must not be allowed to migrate from the area of application.

F. Information Required for Animal Feeding Operation and Concentrated Animal Feeding Operation Permit.

Prior to consideration by the Planning Commissions, the applicant for a conditional use permit for an animal feeding operation and/or concentrated animal feeding operation shall provide the following information to the zoning administrator:

1. Owner's, manager's, management company's or similar entities' names, addresses and telephone numbers.

2. Legal description of site.

3. Number and type of animals.

4. Fly and odor control plan.

5. Information on ability to meet designated setback requirements, including maps showing measured distances.

6. General Water Pollution Control Permit from the South Dakota Department of Environment & Natural Resources as required.

7. Review of Plans and Specifications and Nutrient Management Plan by the South Dakota Department of Environment & Natural Resources.

8. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.

9. Site Plan of the land utilized for manure application and written agreements for application on land not owned by the applicant.

10. Proof of insurance, bond, or other assurance of adequate funds set aside by the owner of a CAFO in a site-specific amount determined by Clay County sufficient to ensure proper clean-up of any environmental damages that might occur and to insure proper closure of the

confinement operation.

11. Any other information as contained in the application and requested by the County Zoning Administrator.

12
ADJUSTMENTS TO YARD REGULATIONS

12.01 Adjustment to Front Yard Requirements

A front yard may be adjusted to an average of the adjacent structures front yards where existing adjacent structures have a front yard less than required.

12.02 Adjustment to Side Yard Requirements

Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

12.03 Projections From Buildings

Every part of any required yard shall be open to the sky and unobstructed except:

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

B. Eaves may project into a side yard twenty-four (24) inches, or two-fifths of the required side yard, whichever projection is greater, exclusive of gutters;

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

D. Air conditioners may project into a required side or rear yard setback;

E. An open, unenclosed porch may project into a required front yard for a distance not exceeding ten (10) feet while balconies and paved terraces may project six (6) feet into a required front yard; and

F. Terraces, uncovered porches, platforms, decks, and ornamental features which do not extend above the level of ground (first) floor may project into a required yard, provided these projections be distances at least two (2) feet from the adjacent side or rear lot line.

13
NONCONFORMING AND NONSTANDARD USES

13.01 Purpose and Intent

The purpose of this chapter 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.

13.02 Continuation of Nonconforming Uses

Subject to the provisions of this chapter, the lawful use of a premise existing immediately prior to the effective date of this title may be continued, although the use does not conform to provisions hereof.

13.03 Use Becoming Nonconforming by Change in Law or Boundaries

Whenever the use of a premises becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may be continued although the use does not conform to the provisions thereof.

13.04 Change of Nonconforming Use

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

NRC	Natural Resource Conservation
RR	Rural Residential
C	Commercial
LI	Light Industrial
HI	Heavy Industrial

Whenever a nonconforming use has been changed to a more restrictive use or to a permitted use, such use shall not thereafter be changed to a less restrictive use.

13.05 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 except that a conditional use permit may be authorized after the following criteria are given specific consideration:

A. Effect on surrounding property values.

B. The density of land use zoning for the subject and adjacent properties.

C. The degree of hardship upon the applicant which would be caused by failure to grant the permit.

D. It can be demonstrated that it was the owner's intent to use the entire premises for said use prior to the adoption, revision, or amendment of this ordinance.

13.06 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 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. Exception: Single-family dwellings may be restored if damaged less than 100 percent.

13.07 Discontinuance of Nonconforming Use

In the event that a nonconforming use is discontinued for more than one year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located.

13.08 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.

13.09 Continuation of Nonstandard Uses

Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

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

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

C. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

14
AMENDMENTS AND CHANGE OF ZONES

14.01 Application for Zoning Amendment

Any person, firm or corporation desiring a change in regulations, restrictions or boundaries of the zoning map of any property from one zoning district classification to another zoning district classification, shall make application for such change to the Clay County Zoning Administrator. Such application shall be provided by Clay County Zoning Administrator and be completed in full by the applicant. The Clay County Zoning Administrator shall provide copies of all submitted application materials to the City of Vermillion Zoning Administrator within five (5) working days of receipt.

The Board of County Commissioners and the City Council may from time to time on their own motion, after public notice and hearing, and after proper consideration from the Planning Commissions (as required by 14.03 below) amend, supplement, or change the boundaries or regulations herein or subsequently established.

14.02 Fees

Upon the filing of any application for a zoning district classification change, the applicant shall pay to Clay County the appropriate fee as designated in Chapter 17. These fees shall be utilized to defray necessary administrative costs of processing the application as required, including publication and printing of required notices.

14.03 Hearing by Planning Commissions

Upon the filing of an application for a request of zoning district classification change, the Clay County Zoning Administrator shall set a date for a public hearing, at which time and place the County and City Planning Commissions shall meet jointly to consider the zoning classification changes. Said public hearing shall comply with the provisions of SDCL Chapters 11-2, 11-4 and 11-6.

A. Signs. A sign(s) to be provided by the Clay County Zoning Administrator shall be posted on the property at least seven (7) days prior to the scheduled hearing.

B. Recommendations from Planning Commissions. The County and City Planning Commissions shall, respectively, make a recommendation to the Board of County Commissioners and City Council on those applications for zoning district classification changes which have been considered and all other amendments to these regulations.

14.04 Hearing by Board of County Commissioners and City Council

The Board of County Commissioners and the City Council shall jointly conduct a public hearing to act on all applications which have been processed and forwarded to them for public hearing as provided in these regulations. The County Auditor shall cause to be published a notice of the time and place when and where all persons interested shall be given a full, fair and complete hearing. Said public hearing shall comply with the provisions of SDCL Chapters 11-2, 11-4 and 11-6.

A. Supplementary Notice. Supplementary to the published notice, a sign(s) to be provided by the Clay County Zoning Administrator shall be posted on the property at least seven (7) days prior to the scheduled hearing.

B. Hearing. Upon the day of such public hearing, the Board of County Commissioners and the City Council shall review the decisions and recommendations of their respective Planning Commissions on all applications coming before them as provided in these regulations. The Board of County Commissioners and the City Council must each vote in favor of the proposed action before any changes or modifications are made in the regulations, restrictions or zoning map.

C. Reapplication. No application requesting a zoning 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 County Commissioners and City Council, shall again be considered by the Planning Commissions before the expiration of six (6) months from the date of the final action of the Board of County Commissioners and City Council.

15
ZONING BOARD OF ADJUSTMENT

15.01 Establishment

The Zoning Board of Adjustment shall consist of the Clay County Board of Commissioners and the Vermillion City Council. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant conditional use permits, grant variances, and hear appeals to the terms of these regulations in harmony with the general purpose and intent and in accordance with general and specific rules herein contained.

15.02 Operational Procedure

A. The Board shall meet at the regularly scheduled joint meetings of the Clay County Board of Commissioners and the Vermillion City Council. Special meetings may be held at the call of the chairpersons. All meetings of the Board shall be open to the public and all business coming before the Board shall be transacted at such meetings.

B. The Board shall keep minutes of its proceedings, records of examinations and other official actions, all of which shall be filed in the Clay County Planning and Zoning Department and shall be a public record.

15.03 Appeals

The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Clay County Zoning Administrator in the enforcement of these regulations.

15.04 Variances

The Zoning Board of Adjustment shall not vary the regulations unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:

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

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

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

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

E. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

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

G. The Board shall hear and make determinations on variance to exceed the height limits as established by these regulations.

H. The Board of Adjustment, under its authority to grant variances may impose reasonable conditions on the grant, and one accepting those conditions is bound by them.

15.05 Application to the County for Variance

Any person, firm, or corporation desiring a variance or wishing to appeal a decision of the Clay County Zoning Administrator or his authorized representatives shall make application for such request to the Clay County Planning and Zoning Department. Such application shall be provided by the Department and completed in full by the applicant. The Clay County Zoning Administrator shall provide copies of all submitted application materials to the City of Vermillion Zoning Administrator within five (5) working days of receipt.

15.06 Fees

Upon the filing of any application for a variance or appeal by the Board, the applicant shall pay to Clay County the appropriate fee as designated in Chapter 17. These fees shall be utilized to defray necessary administrative costs of processing the application as required.

15.07 Hearing

Upon the filing of an application, the Clay County Zoning Administrator shall set a date for public hearing, at which time and place the Zoning Board of Adjustment shall meet to consider the request for variance or appeal.

A. SIGNS. A sign(s) to be provided by the Clay County Zoning Administrator shall be posted on the property at least seven (7) days prior to the scheduled hearing.

B. DECISION. All requests under this chapter shall be acted upon at a joint meeting of the County Commission and City Council. The County Commission and City Council shall vote on such requests independently, and the concurring vote of two-thirds (2/3) of the members of each body shall be necessary to approve any variance or arrive at any determination.

15.08 Appeals from Decision of Board

Appeals may be taken to the Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the County, aggrieved by any decision of the Board, in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.

15.09 Limitations

Any order of the Board granting a variance may be declared invalid by the Board unless substantially completed within two years from the date of such order. The Clay County Zoning Administrator shall notify the property owner of record upon invalidation of a variance.

16
CONDITIONAL USE PERMITS

16.01 Conditional Uses

A. Procedure

The Planning Commissions may authorize by conditional use permit the uses designated in this ordinance when located in a zoning district allowing such use. The Planning Commissions shall impose such conditions as are appropriate and necessary to protect the health, safety, and general welfare in the issuance of such conditional use permit.

B. Application

To obtain a conditional use permit, the applicant shall file an application with the Clay County Zoning Administrator on a form as provided. The Clay County Zoning Administrator shall provide copies of all submitted application materials to the City of Vermillion Zoning Administrator within five (5) working days of receipt. Every application shall contain the following information:

1. Legal description of the land on which such conditional use is requested.

2. Name, address and phone number of the owner of the property which is the subject of such application.

3. Name, address and phone number of the person making the application if made by anyone other than the owner.

4. Zoning district classification under which the property is regulated at the time of such application.

5. A site plan, unless waived by the Clay County Zoning Administrator.

6. Any other information concerning the property as may be requested by the Clay County Zoning Administrator.

C. Fees

Upon the filing of any application for conditional use with the Clay County Zoning Administrator, the applicant shall pay to Clay County the appropriate fee as designated in Chapter 17. This fee is utilized to defray necessary administrative costs of processing the application as required.

D. Information on Site Plan

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 ordinance and all relevant laws, rules, and regulations.

Exception: The Clay County Zoning Administrator may waive the submission of plans, if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

1. The address of the property and the legal description.

2. The name of the project and/or business.

3. The scale and north arrow.

4. All existing and proposed buildings or additions.

5. Dimensions of all buildings.

6. Distance from all building lines to the property lines at the closest points.

7. Building height and number of stories.

8. Dimensions of all property lines.

9. Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.

10. Screening; show height, location, and type of material to be used.

11. The landscaped setback and trees; indicate species of trees and material to be used for landscaping.

Approved plans shall not be changed, modified, or altered and all work shall be done in accordance with the approved plans.

E. Hearing

Upon the filing of an application, the Clay County Zoning Administrator shall set a date for public hearing, at which time and place the County and City Planning Commissions shall jointly meet to consider the conditional use permit request.

1. SIGNS. A sign(s) to be provided by the Clay County Zoning Administrator shall be posted on the property at least seven (7) days prior to the scheduled hearing.

2. ACTION. At the joint meeting, the County and City Planning Commissions shall decide whether to grant the conditional use permit with such conditions and safeguards as are appropriate or to deny the conditional use permit when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commissions shall be final unless an appeal is filed in accordance with Section 16.01 (G). In the event the Planning Commissions are not in agreement on a decision whether to grant a conditional use permit, the following shall apply:

    a. When one Planning Commission votes to grant a conditional use permit and the other Planning Commission votes to deny, the permit is deemed to be denied and the petitioner may appeal the decision to the governing bodies in accordance with Section 16.01 (G).

b. When both Planning Commissions vote to grant a conditional use permit but the conditions are not identical, the application shall be presented to a joint meeting of the County Commission and City Council for final action. The requirements of Section 16.01 (H) shall apply.

c. When one or the other Planning Commission votes to defer action on a conditional use permit, the application shall be considered at a future joint meeting of the Planning Commissions.

F. Conditional Use Criteria

The following considerations shall be employed when acting upon requests for conditional uses:

1. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

2. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

3. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, orientation or other measures.

4. The proposed use shall not adversely affect the public.

G. Appeal of Decision of Planning Commissions

The decision rendered by the Planning Commissions on a conditional use permit may be appealed to the Board of County Commissioners and the City Council. To appeal the decision of the Planning Commissions, the applicant or any other person aggrieved by said decision shall file a written appeal with the Clay County Zoning Administrator within five working days of the Planning Commissions' decision.

H. Hearing by the Board of County Commissioners and the City Council

When an appeal has been filed in accordance with Section 16.01 (G) or the decision by each Planning Commission is not in agreement, the Board of County Commissioners and the City Council shall jointly conduct a public hearing and take final action on the conditional use application.

1. SIGNS. A sign(s) to be provided by the Clay County Zoning Administrator shall be posted on the property at least seven (7) days prior to the scheduled hearing.

2. HEARING. At the public hearing, the Board of County Commissioners and City Council shall review the decisions of the respective Planning Commissions on the applications coming before them. In making their determination of such applications, they need not be bound by the actions of the Planning Commissions.

3. ACTION. The Board of County Commissioners and the City Council shall decide whether to grant the conditional use permit with such conditions and safeguards as are appropriate or to deny the conditional use permit when not in harmony with the purpose and intent of these

regulations. The Board of County Commissioners and the City Council, in making their determinations on such applications, may make changes in accordance with or in rejection or modification of the decisions of the respective Planning Commissions. In order for any conditional use permit to be approved, the Board of County Commissioners and the City Council must each vote in favor of the application.

I. Amendments

Amendments shall be processed in the same manner as required for a separate conditional use permit.

J. Expiration

A conditional use permit which has been approved shall expire by limitation and become null and void if the building, work or use authorized by such conditional use permit is not commenced within one year from the date of approval. Upon written request to the Clay County Zoning Administrator and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the Clay County Zoning Administrator.

K. Preexisting Uses

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

L. Reapplication

No applicant requesting a conditional use permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Planning Commissions or the Board of County Commissioners and City Council shall be again considered by the Planning Commissions before the expiration date of six (6) months from the date of the final action on the petition.

M. Revocation

If the Clay County Zoning Administrator finds that at any time that the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, the Clay County Zoning Administrator shall report this fact to the permittee, landowner, and/or operator, and the County and City Planning Commissions. The County and City Planning Commissions may, after conducting a public hearing, of which the permittee, landowner, and/or operator shall be notified, make a recommendation to the Board of County Commissioners and the City Council for their consideration and action. The Board of County Commissioners and the City Council may, after conducting a public hearing, of which the permittee, landowner, and/or operator shall be notified, revoke the conditional use permit for failure to comply with the terms, conditions, or requirements of the permit.

17
FEES

17.01 General Regulations

The current fee schedule shall be available from the Clay County Zoning Administrator. All fees required by this ordinance shall be the property of Clay County and shall be deposited with the County Treasurer and credited to the general fund. The fees shall be paid at the time of filing the application with the Clay County Zoning Administrator. No action shall be taken on any application until all applicable fees have been paid in full. Under no conditions shall any fee required hereunder be refunded after said application has been heard by the Planning Commissions. An applicant who withdraws his application prior to the Planning Commission meeting is entitled to a refund provided all publication costs incurred by Clay County are first deducted from the fee.

17.02 Change of Zone

A fee of $175.00 shall be charged for filing an application to change the zoning classification of property except to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

17.03 Planned Development District

A fee of $175.00 plus $25.00 for each subarea shall be charged for the filing of an application to change to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

17.04 Major Amendment

A fee of $100.00 shall be charged for the filing of an application for a Major Amendment to a Planned Development District.

17.05 Minor Amendment

A fee of $50.00 shall be charged for the filing of an application for a Minor Amendment to a Planned Development District.

17.06 Minimal Amendment

A fee of $25.00 shall be charged for filing of an application for a Minimal Amendment to a Planned Development District.

17.07 Conditional Use

A fee of $100.00 shall be charged for filing an application for a conditional use permit in any district. If any use, for which a conditional use permit is required, is commenced prior to the application for a conditional use permit, the application fee shall be double the regular fee.

17.08 Board of Adjustment

A fee of $50.00 shall be charged for filing an application for an appeal to the Zoning Board of Adjustment.

18
GENERAL PROVISIONS

18.01 General Regulations

The following general regulations shall apply to all zoning districts:

A. Except as otherwise provided, no building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any structure or land be used:

   1. Except for a purpose permitted in the district in which the structure or land is located.

   2. Except in conformance with the height and minimum lot requirements, and the parking and sign regulations, and any other applicable requirements of the district in which the structure or land is located.

   3. Except in conformance with any Federal, State or County codes as may be applicable. Where these regulations and any other rules and regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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

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

18.02 Building Permits Required

It shall be unlawful for any person to construct, alter, or repair a building or structure or to commence the construction, alteration, or repair of a building or structure, without first having obtained a building permit. Building permits shall be obtained from the Clay County Zoning Administrator. This requirement shall not apply to minor nonstructural changes involving no change of use.

18.03 Enforcement and Administration

Enforcement and administration of these regulations shall be as follows:

A. It shall be the duty of the Clay County Zoning Administrator to enforce these regulations.

B. The Clay County Zoning Administrator or an authorized representative shall be charged with the following:

   1. Receive applications required by these regulations.

2. Issue permits.

3. Make necessary inspections to assure compliance.

4. Issue notices or orders as may be necessary to assure compliance.

C. An application for a building permit shall be submitted in such form as the Clay County Zoning Administrator may prescribe. Such application shall be made by the owner or lessee, or agent of either, or the architect, engineer, or builder employed in connection with the proposed work. If such application is made by a person other than the owner in fee, when required by the Clay County Zoning Administrator, it shall be accompanied by a duly verified affidavit of the owner in fee, or the person making the application that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application. Such shall contain the full names and addresses of the applicant and of the owner, and if the owner is a corporate body, of its responsible officers. Such application shall describe briefly the proposed work and shall give such additional information as may be required by the Clay County Zoning Administrator for an intelligent understanding of the proposed work. The Clay County Zoning Administrator shall provide copies of all submitted application materials to the City of Vermillion Zoning Administrator within five (5) working days of receipt.

18.04 Site Plan

All site plans shall provide the following information:

A. Each application for a building permit shall be accompanied by a site plan showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of these regulations. A record of applications and site plans shall be kept in the office of the Clay Zoning Administrator.

B. Nothing in these regulations shall prohibit the filing of amendments to an application or to a plan or other record accompanying the same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

C. The Clay County Zoning Administrator or authorized representative shall examine applications for building permits within a reasonable time after filing. If, after examination, it appears that the proposed work will be in compliance with all applicable laws, the application shall be approved and a permit issued as soon as practicable. If the examination reveals otherwise, the application shall be rejected, with the findings attached to the application, and a copy delivered to the applicant.

D. All work performed under a permit issued by the Clay County Zoning Administrator or authorized representative shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved site plan, or an approved amendment thereof, shall be strictly adhered to. It shall be unlawful to reduce or diminish the area of a lot or tract of which a site plan has been filed and has been used as the basis for a permit, unless a revised site plan showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

E. Every permit issued by the Clay County Zoning Administrator under the provisions of these regulations shall have his/her signature affixed thereto; but this shall not prevent him/her from authorizing a subordinate to affix their signature.

F. A permit under which no work is commenced within one year after issuance shall expire by limitation.

G. The Clay County Zoning Administrator may revoke a permit or approval issued under the provisions of these regulations in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

18.05 Violation and Penalty

Violations shall be treated in the manner specified below:

A. The owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed $500.00, 30 days in jail, or both. Each and every day that such violation continues may constitute a separate offense.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Clay County, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

18.06 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. On rare occasions, greater floods can and will occur, and flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the flood zone or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Clay County or the City of Vermillion or on any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

18.07 Interpretation, Abrogation, and Severability

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not the intent to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where these regulations and other regulations, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. All other regulations inconsistent with these regulations are hereby repealed to the extent of this inconsistency only. If any section, clause, provision or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

18.08 Saving Clause

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

18.09 Purpose of Catch Heads

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

18.10 Effective Date

These regulations shall be in full force and effect from and after its passage and publication as provided by law.

19

Definitions

19.01 Purpose

In the application of this ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

A. Words used in the present tense shall include the past and future.

B. Words used in the singular number shall include the plural number and the plural, the singular.

C. The word "shall" is mandatory and not discretionary.

D. The word "may" is permissive.

E. The words "used" or "occupied" shall include the words "intended," "designed," or "arranged to be used or occupied."

F. The word "lot" shall include the words "plot," "parcel," or "tract."

G. The word "person" shall include a "firm," "association," "organization," "partnership," "trust," "company," or "corporation" as well as an "individual."

H. The word "building" shall include the words "structure" and "premises."

I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

19.02 Definitions

25-YEAR, 24-HOUR STORM EVENT - The amount of rainfall in a 24-hour period expected to occur only once every 25 years. Typically, the 25-year, 24-hour storm event is about 3 inches in western South Dakota and 5 inches in eastern South Dakota.

100-YEAR, 24-HOUR STORM EVENT - The amount of rainfall in a 24-hour period expected to occur only once every 100 years. Typically, the 100-year, 24-hour storm event is about 4 inches in western South Dakota and 6 inches in eastern South Dakota.

ABUTTING - Abutting shall mean adjacent or contiguous and shall include property separated by an alley. The term "abutting" implies a closer proximity than the term "adjacent."

ACCESSORY BUILDING OR USE - A subordinate building or portion of the main building, the use of which is incidental to and customary in connection with the main building or the main use of the premises and which is located on the same lot with such main building or use. An accessory use is one which is incidental to the main use of the premises.

ADULT ARCADE - Any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines,

projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.

ADULT BOOKSTORE OR VIDEO STORE - A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

1. Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.

2. Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.

ADULT CABARET - Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or seminudity.

2. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

ADULT MOTION PICTURE THEATER - A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.

ADULT ORIENTED BUSINESS - Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.

ADULT SERVICE - Dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.

ADULT THEATER - A theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

AGRIBUSINESS - Farming engaged in as a large-scale business operation embracing the production, processing, and distribution of agricultural products and the manufacture of farm machinery, equipment, and supplies.

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 take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including heliports.

ALLEY - An alley is a public right-of-way which affords only a secondary means of access to abutting property.

ANIMAL FEEDING OPERATION - A lot or facility that stables, confines, and feeds or maintains livestock in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvested residues in the normal growing season. Two or more animal feeding operations under common ownership are a single animal feeding operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure.

ANIMAL MANURE - Fecal material and urine from livestock as well as animal-housing waste water, bedding material, or other materials.

ANIMAL NURSERY - A place where young animals grow or are cared for.

ANTENNA - Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.

ANTENNA SUPPORT STRUCTURE - Any existing structure that supports wireless communication facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples, and light poles.

APPLICANT - An individual, corporation, group of individuals, partnership, joint venture, owners, or any other business entity submitting an application for a permit, amendment, variance, or appeal.

AQUIFER - A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

ARCADE - A building or structure, open to the public, which contains coin operated games and similar entertainment and amusement devices, as the primary use or with five (5) or more games as an accessory use.

AREA OF SPECIAL FLOOD HAZARD - Means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

ASSISTED-LIVING CENTER AND CONGREGATE CARE FACILITY - A licensed health care facility to provide 24-hour supervision of the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may also provide services, such as recreational activities, financial services, and transportation.

AUTOMOBILE STORAGE YARD - The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.

AWNING/CANOPY - A roof-like cover that is temporary in nature and projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BASE FLOOD - Means the flood having a one percent chance of being equaled or exceeded in any given year.

BED AND BREAKFAST ESTABLISHMENT - A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

BEST MANAGEMENT PRACTICES (BMP) - Schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, manure stockpiles, or drainage from raw material storage.

BOARD OF ADJUSTMENT - Public and quasi judicial agency charged with duty to hear and determine zoning appeals.

BOARDINGHOUSE - A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

BROADCAST TOWER - Shall mean a structure, not including offices or studio, for the transmission of radio or television broadcast communications.

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

BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground or attached to the ground with a fixed location on the ground.

BUILDING, DETACHED - A building surrounded by open space on the same lot.

BUILDING, HEIGHT - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten feet of the structure.

BUILDING LINE - A line parallel to the curb line touching that part of a building or parking lot closest to the street.

BUILDING PERMIT - A document signed by the Authorized official of Clay County as a condition precedent to the commencement of a use or the erection, construction, re-construction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use, or building complies with the provisions of the joint jurisdiction zoning ordinance or an authorized variance there from.

BUILDING, RESIDENTIAL - A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings;
2. Single-family attached dwellings;
3. Multiple-family dwellings (including apartment hotels);
4. Lodging houses; and
5. Fraternity and sorority houses.

BUILDING SEWER - That part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer.

BUS PASSENGER TERMINAL - A place where the transfer of people between modes of transportation takes place.

BUS/TRUCK TERMINAL - An area and building where buses, trucks, and cargo is stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of vehicles is performed.

BUS/TRUCK WASH - Any building or portions thereof used for washing buses and/or trucks.

CAMPGROUND, TRAVEL TRAILER PARKING AREA - 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 can be located and occupied as temporary living quarters.

CAR WASH - Any building or portions thereof used for washing automobiles.

CEMETERY - A place where burials have been or will continue to be made in the future.

CERTIFICATE OF OCCUPANCY - A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal and/or county codes and ordinances.

CHANGE IN OPERATION - A change in the size of a concentrated animal feeding operation in which an operation moves from one class to another or a change in the species of an operation.

CHANGE OF OWNERSHIP - A change where the existing sole proprietor disposes of their entire interest in the agency; or a change in a partnership where all of the existing partners relinquish their entire ownership; or a change in a corporation where all of the existing stockholders relinquish their ownership shares.

CHANGE OF USE - Substitution of one thing for another specifically regarding use of land or use of a building.

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

CHURCH - A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CITY - Means City of Vermillion, South Dakota.

CITY COUNCIL - Means Board of City Council Members, Vermillion, South Dakota.

CLASS V INJECTION WELL - A conduit through which potentially contaminated but generally non-hazardous fluids can move from the land surface to the subsurface; the types of primary concern are (a) commercial/industrial facility septic tanks when they are used to dispose of more than domestic wastewater and (b) dry wells for repair/service bay drains at facilities servicing motorized vehicles/equipment.

CLINIC - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, optometrists, social workers, etc., and where patients are not usually lodged overnight.

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

COMMERCIAL PARKING LOT/FACILITY - An approved open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored for a fee.

COMPREHENSIVE PLAN - The adopted long-range plan intended to guide the growth and development of the community and region, including analysis, recommendations and proposals of the community's population, economy, housing, transportation, community facilities, and land use.

CONCENTRATED ANIMAL FEEDING OPERATION – An animal feeding operation that meets the following State criteria for a large, medium, or small concentrated animal feeding operation:

1. A large concentrated animal feeding operation as described in Table 1.

2. A medium concentrated animal feeding operation as described in Table 1 and meets one of the following conditions:

    a. Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or

    b. Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

3. A small concentrated animal feeding operation as described in Table 1 in Section 11.14 (D) and designated as a concentrated animal feeding operation by the Secretary of the South Dakota Department of Environment and Natural Resources, or authorized representative, considering the following factors:

    a. The size of the animal feeding operation and the amount of manure or process wastewater reaching waters of the state;
    b. The location of the animal feeding operation in relation to waters of the state;
    c. The means of conveyance of manure and process wastewater into waters of the state; and
    d. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of manure and process wastewater into waters of the state.

CONDITIONAL USE PERMIT - A permit providing for a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not detract from the public health, safety, or general welfare. The Planning Commissions may permit such uses when specific provision is made in the zoning district regulations.

CONTAMINANT - Any "regulated substance," as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

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

CONTINGENCY PLAN - Documents setting forth operational plans that explain how a facility and its personnel will respond to an accidental or intentional discharge/release of a contaminant or hazardous material.

CONTRACTOR'S SHOP AND STORAGE YARD - Use of land or buildings for storage and preparation of materials used by those same individuals in conducting the business of construction and repair work, generally completed at some other on-site location.

CONVENT OR MONASTERY - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in adjacent institutions.

COUNTY - Means Clay County, South Dakota.

COUNTY COMMISSION - Means Board of County Commissioners, Clay County, South Dakota.

COUNTY HIGHWAY - Any road or highway on the Clay County highway system which is not specified as a state highway or township road.

CREMATORIUM - A building or premise used for the cremation of corpses.

CURB LINE - The outside lines of the pavement or roadway.

DAY CARE - The providing of care and supervision of a child or children/adults as a supplement to regular parental/home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

DAY CARE, CENTER - A facility used only for providing day care, nursery, or pre-kindergarten services, and limited in number over twelve (12) by the square footage of usable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per person outdoors.

DAY CARE, FAMILY - Care is done in a family home, and the number of persons cared for is limited to a maximum of six (6) adults or six (6) children under fourteen. Included in that count are the providers' own children six (6) years and under. See (Home Occupation).

DAY CARE, GROUP - Is normally in a family home. The number of persons cared for is seven (7) to twelve (12) adults or children under the age of fourteen including the provider's own children six (6) years and under.

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

DEVELOPMENT - The carrying out of any construction, reconstruction, alteration of surface, structure, change or land use or intensity of use, and including but not limited to the deposit of refuse, solid or liquid waste, any mining or drilling operation, or work relating to the creation of a road, street, or parking area.

DISPLAY - The use of any building, land area, or premises, for the exhibit of goods, materials, merchandise, or vehicles for sale to the public.

DISTILLATION OF PRODUCTS - A building or premises used for the purification and concentration of a substance by volatilization or evaporation and subsequent condensation.

DISTRICT - An area 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.

DRIVE-UP SERVICE WINDOW/DEVICE - An establishment which accommodates the patron's motor vehicles, from which the occupants may obtain or receive a service or obtain a product through a service window or automated device.

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses. This definition does not include manufactured homes (see MANUFACTURED HOME).

DWELLING, MULTIPLE-FAMILY - A building designed for or occupied exclusively by three (3) or more families.

DWELLING, SINGLE-FAMILY - A building designed for or occupied exclusively by one family.

DWELLING, SINGLE-FAMILY FARM - Single-family dwelling located on a farm which is used or intended for use by the farm's owner or relative of the owner or a person employed thereon.

DWELLING, TWO-FAMILY - A building designed for or occupied exclusively by two families.

DWELLING UNIT - One or more rooms in a dwelling occupied or intended to be 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.

EXISTING ANTENNA SUPPORT STRUCTURE - Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

FACILITY - Something built, installed or established for a particular purpose.

FAMILY - One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than four (4) adults who are unrelated by blood or law. In addition to the persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title:

1. A person residing with the family for the purpose of adoption;
2. Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency;
3. Not more than four persons eighteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency;
4. Any persons living with the family at the direction of a court; and
5. Twenty four hour supervised living of up to four (4) persons with physical or mental disabilities, but not including group homes for drug and alcohol rehabilitation or halfway houses for persons adjudicated by a court. Such residential facilities shall be licensed by the State of South Dakota and proof of such licensing shall be required prior to zoning certificate approval.

FARM - A parcel of land used for agricultural purposes, with a minimum of 10 acres in size.

FARM IMPLEMENT DEALER - The use of any building or land area for the display and sale of new and used farm implements, including any warranty repair work and other repair service conducted as an accessory use.

FARMSTEAD - The area of a farm in which the out buildings sit and are normally protected by a grove(s) and not used for crops or grazing.

FARM STORE/FEED STORE - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agri-chemicals.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FLOOD HAZARD BOUNDARY MAP (FHBM) - The official map issued by the Federal Emergency Management Agency where the areas of special flood hazard have been designated Zone A.

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

FOUNDATION, SITE BUILT - A foundation which has frost depth footings of forty-two (42) inches, with concrete block or poured walls of a height of not less than eight (8) inches above grade level. There shall also be the means to secure the plate to the foundation.

FRONTAGE - That side of a lot abutting on a street; the front lot line.

FRUIT/VEGETABLE CANNING AND PROCESSING - A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

FUNERAL HOME - A licensed establishment for the disposition of human bodies.

GARAGE, PRIVATE - An accessory building designed or used for the storage of not more than four motor vehicles, excluding all commercial vehicles, owned and used by the occupants of the building to which it is accessory.

GARDEN CENTER - A building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

GAS DISPENSING STATION - Any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories, or testing may be done. Gasoline pumps and islands shall be located more than 15 feet from the nearest property line.

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

GOLF COURSE - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters.

GRADE - The average elevation of the land around a building.

GRAIN TERMINAL - A facility for the storage of agricultural grains.

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.

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.

GROUNDWATER - Subsurface water that occurs in soils and geologic formations that are fully saturated.

HAZARDOUS MATERIAL - Any contaminant as defined in this ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022 as in effect on the date of publication of this ordinance.

HOME OCCUPATION - A home occupation is any occupation carried on by a member of the immediate family residing on the premises, in accordance with 11.10.

HOSPITAL - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

HOTEL, MOTEL, MOTOR COURT, MOTOR LODGE, OR TOURIST COURT - Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

HOUSED LOT - Totally roofed buildings that may be open or completely closed on the sides. Animals are housed over solid concrete or dirt floors, slotted floors over pits or manure collection areas in pens, stalls, or cages. Housed lot is synonymous with other industry terms such as slotted floor buildings.

IRRIGATION SYSTEM - Any structure or equipment, mechanized or other, used to supply water for commercial agriculture, including, but not limited to: wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds, and reservoirs.

KENNEL - Any premise, or portion thereof, where dogs, cats, and other household pets are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

LANDSCAPED AREA/LIVING GROUND COVER - An area that is permanently devoted and maintained in perennial grasses, herbaceous perennials, trees, shrubbery, and flowers.

LEAKS AND SPILLS - Any improper discharge of a contaminant that could potentially contaminate ground water.

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.

LOADING SPACE - A space within the main building or on the same lot for the standing, loading, or unloading of trucks.

LOT - A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, which may include one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this ordinance, and having its principal frontage upon a street or upon an officially approved place.

LOT AREA - The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE - A lot which abuts a street on two opposite sides (not a corner lot).

LOT, FRONTAGE - The length of the front lot line measured at the street right-of-way line.

LOT, INTERIOR - A lot other than a corner lot.

LOT LINE - A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three (3) feet to any lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the office of the County Register of Deeds; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the effective date of this ordinance.

MANUFACTURED HOME - A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.

For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

MANUFACTURED HOME PARK, LICENSED - A contiguous parcel of land operated as a unit, under the same ownership where two or more lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services.

MANURE - Manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal or use.

MANURE MANAGEMENT SYSTEM - Any piping, containment structures, and disposal appurtenances associated with the collection, storage, treatment, and disposal of manure or wastewater at an animal feeding operation or Confined Animal Feeding Operation.

MANURE STORAGE AREA - An area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons.

MAP, OFFICIAL ZONING - The map or maps, which are legally adopted as a part of the Joint Jurisdiction Zoning Ordinance, that delineate the boundaries of the zoning districts, show the location and size of public rights-of-way, public waterways, and the city/county limit lines.

MASSAGE ESTABLISHMENT - An establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision does not apply to:

1. Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.

2. Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.

3. Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.

4. Physical therapists licensed pursuant to SDCL Ch. 36-10.

5. Athletic trainers licensed pursuant to SDCL Ch. 36-29.

6. Massage therapists licensed pursuant to SDCL Ch. 36-35.

7. Chiropractors licensed pursuant to SDCL Ch. 36-5.

MINING - The development or extraction of a mineral from its natural occurrence or affected land. The term includes, but is not limited to surface mining and surface operation, in situ mining, the reprocessing of tailing piles, the disposal of refuse from underground mining, and milling and processing located on land described in the application for a mining permit.

MORTUARY - A place for the storage of human bodies prior to their burial or cremation.

MOTEL - An establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for the temporary residence of motorists or travelers. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. See (Hotel/Motel).

MOTOR VEHICLE - Any vehicle which is designed to travel along the ground or in the water and shall include but not be limited to automobiles, vans, buses, motorbikes, trucks, trailers, go carts, golf carts, boats, snowmobiles, and campers.

MOTOR VEHICLE REPAIR - Any building or premises involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

MOTOR VEHICLE, COMMERCIAL - Any vehicle which has more than 16 square feet of signage or which is adapted, designed, equipped, and used to perform a specific commercial function and which does not meet the definition of Motor Vehicle, Personal/Passenger as defined herein.

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

MOTOR VEHICLE, PERSONAL/PASSENGER - Any car, pickup-truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal/passenger travel and has not been externally altered with features not customary to personal usage.

MOTOR VEHICLE, RECREATIONAL - Any vehicle which is adapted, designed, and equipped to facilitate leisure time activities including but not limited to the following: ATVs, boats, snowmobiles, along with trailers to haul said vehicles; RVs and travel trailers.

MOTOR VEHICLE SALES, DISPLAY, AND RENTAL - The use of any building, land area, or premises, for the display, sale, or rental of new or used motor vehicles, and including any warranty repair work and other repair service conducted as an accessory use. The sale or display of inoperable motor vehicles is not allowable as part of this use category, see "SALVAGE OR JUNK YARD."

MOTOR VEHICLE SERVICE STATION - Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or 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. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations,

or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than 15 feet from the nearest property line.

NEIGHBORHOOD UTILITY FACILITY - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings, facilities and above ground structures that exceed 120 square feet of area) necessary for conducting a service by a government or a public utility.

NONCONFORMING USE - A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this title, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

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 title 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 title.

NUDE MODEL STUDIO - A place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other considerations. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:

1. A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.

2. A Student must enroll at least three days in advance of a class in order to participate.

3. No more than one nude or seminude model is on the premises at any time.

NUDE, NUDITY OR STATE OF NUDITY - Any of the following:

1. The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.

2. A state of dress that fails to opaquely cover a human anus, genitals, or a female breast below a point immediately above the top of the areola.

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See (Greenhouse).

NURSING HOME - An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason by advanced age, chronic illness or infirmity, are unable to care for themselves.

OFFICE BUILDING - A building designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations. Broadcast

stations, offices, and studios shall be considered to be office buildings; broadcast towers as defined in this title shall not be so considered.

OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

ON-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

OPEN LOT - Pens or similar confinement areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Open lot is synonymous with other industry terms such as pasture lot, dirt lot, or dry lot.

OUTDOOR STORAGE - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of salvage or junkyard as defined herein.

OVERFLOW - The discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure.

PARKING SPACE - A hard-surfaced area, enclosed or unenclosed, sufficient in size to park one motor vehicle. A parking space must be provided an unobstructed means of access, and all spaces shall meet the minimum criteria as prescribed by the Joint Jurisdiction Zoning regulations.

PERMITTED USES - Any permissive, permitted, special, or conditional use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSONAL SERVICES - Establishments primarily engaged in providing services involving the care of a person or their apparel. Including, but not limited to: laundry or dry cleaning, receiving station; garment services; coin-operated laundries; photographic and art studios; beauty shops; barber shops; shoe repair; reducing salons and health clubs; clothing rental.

PLACE OF WORSHIP - A structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of function, design, signs, or architectural or other features.

PLANNING COMMISSION - The duly designated planning commissions or boards of the municipality and county responsible for reviewing and approving applications for development and preparation of master plans and ordinances.

PRIMARY CONTAINMENT FACILITY - The tank, pit, container, pipe enclosure or vessel of first containment of a contaminant.

PRINCIPAL BUILDING - A building in which is conducted the primary or predominant use of the lot on which it is located.

PRINCIPAL USE - The primary or predominant use or building of any lot.

PRINTING PLANT - A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including, but not limited to, offset printing, lithography, web offset, flexographic and/or screen process printing.

PRIVATE CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

PROPERTY LINE - See (Lot Line).

PUBLIC SERVICE FACILITY - Government facilities and uses that provide an essential public purpose or service including, but not limited to, a police station, judicial court, fire station, ambulance service, transit or transportation transfer station, community center, public recreation facility, or office, but not including public utility or treatment stations, maintenance facilities, sanitary landfills or facilities for incarcerated persons.

PUBLIC UTILITY FACILITIES - See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings, structures, and facilities that exceed 120 square feet in area are allowable.

QUARRY - A surface excavation used for the removal of rock, stone, sand, gravel, and fill dirt for sale or use off-site and may include sifting, crushing, and washing and bagging.

RECHARGE AREA - Area in which water reaches the zone of saturation by surface infiltration.

RECREATION FACILITY, COMMERCIAL - A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive and operated as a business and open to the public for a fee.

RECREATION FACILITY, PRIVATE - A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

RECREATION FACILITY, PUBLIC - A recreation facility open to the general public. Generally, public recreation facilities are usually owned and operated by a governmental agency, but not necessarily.

RECYCLABLE MATERIALS - Materials or products that may be readily separated from the solid waste stream and may be used or reused as a substitute for raw materials or other items, including but not limited to, aluminum, paper, glass, steel, and plastic.

RECYCLING COLLECTION FACILITY - An established facility where recyclable materials are collected for shipment off site, with no processing such as grinding or crushing of the materials. Fully enclosed automated self-service aluminum collection machines not more than 750 square feet are considered recycling collection facilities regardless of whether they contain a crusher or grinder. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RECYCLING PROCESSING FACILITY - An established facility where recyclable materials are collected and/or processed for shipment off site, including processing operations such as grinding or crushing of the materials. No on-site sales of materials or salvage-type automobiles may be processed at these types of facilities. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RESIDENCE - A permanent dwelling place.

RESTAURANT - An establishment where food and drinks are prepared, served, and consumed primarily within the principal use.

RETAIL SERVICES 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 establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services but does not include on-sale or off-sale alcoholic beverage establishments.

REVERSE SETBACK - A required minimum separation distance, as specified in this ordinance, which begins at the lot line of a structure/use and terminates at the lot line of a proposed structure/use. The required minimum separation distance shall be measured from the closest points of the two respective lots. Reverse setbacks shall be required only when explicitly mandated by this ordinance. The definition of reverse setback as defined in Section 11.14 (E) shall apply to issues related to animal feeding operations and concentrated animal feeding operations.

RIGHT-OF-WAY - A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

ROOMING/BOARDING HOUSE - See (Boarding House).

SALVAGE OR JUNKYARD. An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires, bottles, and motor vehicles. This definition includes an automobile wrecking or dismantling yard, but does not include uses established entirely within enclosed buildings.

SANITARIUM - A hospital used for treating chronic and usually long-term illnesses.

SCHOOL, ELEMENTARY OR SECONDARY (HIGH SCHOOL) - Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

SECONDARY CONTAINMENT FACILITY - A second level of containment outside the primary containment facility designed to prevent a contaminant from leaking or leaching into the environment.

SEMINUDE - A state of dress in which clothing covers no more than the genitals, pubic region, and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

SETBACK/SETBACK LINE - That line that is the required minimum distance from any lot line that establishes the area within which the principal use must be erected or placed.

SHALLOW/SURFICIAL AQUIFER - An aquifer in which the permeable media (sand and gravel) starts near the land surface immediately below the topsoil. The shallow aquifer is further defined as an aquifer within fifty (50) feet or less below the land surface with fifteen (15) feet or less of continuous, overlying, extremely low permeability material, such as clayey till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this ordinance; or, the aquifer is greater than fifty (50) feet but less than one hundred (100) feet below the land surface with

thirty (30) feet or less of continuous, overlying low to extremely low permeability geological material that may be a combination of weathered and unweathered till, shale, or till and shale.

SLAUGHTERHOUSE - A facility for the slaughtering and processing of animals and the refining of their by-products.

SOLID WASTE TRANSFER FACILITY - A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

SPECIFIED ANATOMICAL AREAS - Any of the following:

1. A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.

2. Male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES - Any of the following:

1. Human genitals in a state of sexual stimulation or arousal.

2. Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.

3. Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.

4. Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.

STABLE - Any premise or part thereon where horses or any equine animal are maintained, boarded, bred, trained or cared for in return for remuneration, or are kept for the purpose of sale.

STOCKYARDS - A facility for the temporary confinement and marketing of animals.

STORAGE FACILITY - A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

STORY - Story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under floor space is more than six (6) feet above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

STREET - A public way which affords the principal means of access to abutting property.

STREET, ARTERIAL - A principal traffic artery, more or less continuous across the city, which acts as a principal connecting street with state and federal highways and includes each street designated as an arterial street on the Major Street Plan.

STREET, COLLECTOR - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.

STREET, LOCAL - A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.

STRUCTURAL ALTERATION - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or any complete rebuilding of the roof or the exterior walls.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, signs, docks, dams, manufactured homes, and sheds.

TANK FARM - An open air facility containing a number of above-ground, large containers for the bulk storage in liquid form of petroleum products.

TELECOMMUNICATIONS TOWER - A self-supporting lattice, guyed-lattice, or monopole structure which supports wireless communications facilities. The term includes new and existing towers that are used for services such as microwave, common carrier, cellular telephone, personal communication services, two-way radio paging, and other similar services. The term telecommunications tower does not include amateur radio operators' equipment, as licensed by the Federal Communications Commission.

TELECOMMUNICATIONS TOWER HEIGHT - The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.

TELECOMMUNICATIONS TOWER SITE - The telecommunications tower site shall be the lot of record for which the telecommunications tower is located.

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.

TRAILER - Means any of the following:

1. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
2. Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
3. Motor Home. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as any integral part of a self-propelled vehicle.
4. Camping Trailer. A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

TREE, REQUIRED - A tree which is required by this ordinance and meets or exceeds the minimum specifications according to tree type.

USE, ACCESSORY - See (Accessory Building or Use).

USE, CONDITIONAL - A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would not detract from the public health, safety, or general welfare.

USE, PERMITTED - A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in which such use is located.

USE, PRINCIPAL - A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use includes off-premise advertising.

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

WASTE - Any garbage, refuse, sludge from a waste treatment plant, waste supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

WATERS OF THE STATE - All waters within the jurisdiction of the 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.

WATER TREATMENT FACILITY - A facility for the collection, treatment, storage, and distribution of potable water from the source of supply to the consumer.

WELLHEAD - The upper terminal of a well, including adapters, ports, seals, valves and other attachments.

WHOLESALE MERCHANDISING /WHOLESALE TRADE - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND ENERGY CONVERSION SYSTEM (WECS) - Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.

WECS, ACCESSORY - A WECS which is an accessory use to the principal use of the site, in that the power production is no more then twice the annual site need.

WECS, COMMERCIAL - More than one WECS which are the principal use of the site.

WECS, TOTAL HEIGHT - The height of the tower and the furthest vertical extension of the blades.

WECS TOWER - The primary structural support of the WECS.

WIRELESS COMMUNICATIONS FACILITIES - Any cables, wires, lines, wave guides, antennas, antenna arrays, and any other equipment associated with the transmission or reception of telecommunications signals located or installed upon or near a telecommunications tower or antenna support structure.

YARD, FRONT - A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

YARD, REAR - A yard extending the full width of the lot between a principal building and the rear lot line.

YARD, REQUIRED FRONT - The required front yard shall extend across the front of a lot between the property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.

YARD LINE - See (Building Line).

YARD, REQUIRED REAR - The required rear yard shall extend across the rear of a lot between the property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

YARD, REQUIRED - Shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this title.

YARD, REQUIRED SIDE - The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.

YARD, SIDE - A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line.

ZONE - A specifically delineated area or district of the Joint Jurisdiction Zoning Ordinance within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

ZONE OF CONTRIBUTION - The entire area around a well or well-field that contributes water to the well or well-field.