



## City of Vermillion Planning & Zoning Commission Agenda

5:30 p.m. Joint Meeting with  
Clay County Planning Commission  
Monday, August 29, 2022  
Powell Conference Room  
City Hall, 25 Center Street, Vermillion, SD 57069

1. **Roll Call**
2. **Minutes**
3. **Declaration of Conflict of Interests**
4. **Adoption of the Agenda**
5. **Visitors to Be Heard**
6. **Public Hearings**
7. **Old Business**
8. **New Business**
  - a. Election of Officers – Vice Chair
  - b. Informational Meeting to Discuss Possible Amendments to Sections in Chapter 2, District and Boundaries; Chapter 6, LI: Light Industrial District; Chapter 14, Amendments and Change of Zones; and Chapter 19, Definitions of the Joint Zoning Regulations for Clay County and the City of Vermillion.
  - c. Appointment of City and County Planning and Zoning Commission Members to Joint Committee to Discuss Goals, Objectives, and Policies for the JJZA Comprehensive Plan.
  - d. Set Dates for Joint Committee to Work with SECOG on the JJZA Comprehensive Plan.
9. **Staff Reports**
10. **Adjourn**

### **WELCOME TO YOUR PLANNING COMMISSION MEETING**

If you wish to participate in the discussion, the meeting provides several opportunities. After the minutes are approved, the Chairperson will ask if any visitors wish to be heard. Any item not on the agenda may be discussed. During the discussion of agenda topics, anyone may comment. The Chairperson will recognize you if you raise your hand. Please introduce yourself with your name and address when addressing the Planning and Zoning Commission. Discussion occurs before motions are made and seconded. Discussion also occurs after the motion is seconded and before the vote. You may participate each time if you wish. Your suggestions and ideas are welcome. The best decisions are made when everyone participates and provides information.

**Meeting Assistance:** The City of Vermillion fully subscribes to the provisions of the Americans with Disabilities Act of 1990. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Manager's Office at 677-7050 at least 3 working days prior to the meeting so appropriate auxiliary aids and services can be made available.

# *Planning & Zoning Commission*

## *Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** August 29, 2022

**Subject:** Informational Meeting to Discuss Possible Amendments to Sections in Chapter 2, District and Boundaries; Chapter 6, LI: Light Industrial District; Chapter 14, Amendments and Change of Zones; and Chapter 19, Definitions of the Joint Zoning Regulations for Clay County and the City of Vermillion

**Presenter:** Jose Dominguez

**Background:** The City and the County governing bodies met June 1<sup>st</sup> to discuss how to improve the Joint Zoning agreement between the City and the County. At the conclusion of that meeting, the governing bodies asked staff to bring forward amendments to improve the process for rezoning and possible amendments to the LI: Light Industrial District.

**Discussion:** The Joint Jurisdictional Zoning Area (JJZA) was adopted by the County and the City in 2012. The ordinance was created with the intent to allow the County and the City each have a say in existing and proposed land uses in an area that would directly impact the City's growth. The JJZA tries to maintain the rural characteristics of the surrounding area, while allowing for some light development. The ordinance's intent, based on the adopted comprehensive plan for the JJZA, is to direct development towards areas within City limits or areas that can be annexed by the City and serviced with municipal infrastructure.

There are four sets of amendments being proposed by Staff. The first set proposes that changes be made to Chapter 2 District and Boundaries. Staff proposes to remove section 2.7 Classification of Land Coming Within the Joint Zoning Jurisdiction. This section was an oversight from the adoption of the original ordinance in 2012 and would create duplicate zoning districts, which have not existed since 2012. Furthermore, if the section is enforced, it would imply that areas outside of the current JJZA boundary are within the City's already voided Extraterritorial Zoning Ordinance which extended 3-miles from City limits.

The second set of amendments being proposed are those to Chapter 6 LI: Light Industrial District. These amendments would move uses that may be seen as offensive by adjoining

residential uses from “permitted” too “conditional.” Moving the uses into the conditional use category would require having a public hearing for the proposed use. This would allow the public to comment on the proposed use and, if necessary, for the Planning Commissions to place conditions on the proposed use. Only two uses are recommended to be removed, one is the “Billboard Signs” and the other is “Storage Facility.” This is because the signs are addressed in Chapter 152 of the 2008 Revised Code of Ordinances of the City of Vermillion, and “Storage Facility” is already allowed in the district as a “warehouse, mini-warehouse.”

The third set of amendments proposed would be to Chapter 14, Amendments and Change of Zones. The changes to this chapter were thoroughly discussed at the June 1<sup>st</sup> meeting. At that time, it was recommended by the City Council and Board of Commissioners that this chapter be amended to make ALL meetings joint rather than both bodies meeting separately for the first reading of an ordinance and then jointly for the second reading of the ordinance. The proposed amendments would make ALL meetings occur jointly.

The final set of amendments would be to Chapter 19, Definitions. These amendments would add definitions to uses found in the LI: Light Industrial District that are currently not defined. These are: frozen food locker; grain processing; lumberyard; mini-warehouse; and truck repair, sales, and service. Additionally, the definition for concentrated animal feeding-operation, farm implement dealer, and storage facility are being modified to better describe their intent.

**Compliance with Comprehensive Plan:** The existing comprehensive plan for the JJZA encourages growth to occur within City limits or in areas that are easily annexed. Although the proposed amendments do not directly address these goals, it does take into consideration the adjoining property owners (residents inside or outside the City) by giving them a voice when development occurs adjacent to their property. This additional voice in the conversations may help the City and the County agree on uses that will affect the growth of the City.

**Conclusion/Recommendations:** The items being presented are for discussion only and no recommendations to the governing bodies are required. However, the City and County Staff would like guidance from the Planning Commissions for any changes that may be required to fine tune the amendments.

If the amendments are acceptable, Staff would recommend proceeding with the amendments to Chapter 14 first. After those are approved and in effect, the amendments to Chapters 2, 6, and 19 can occur. This would require that ALL the meetings to consider the amendments to Chapters 2, 6, and 19 be joint.

## ~~2.7—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.~~

# 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 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.

### 6.1 Permitted Uses

Permitted Uses	Applicable Standards
<b>Wholesale Trade</b>	11.01, 11.03, 11.04, 11.05
<del>Light Manufacturing</del>	<del>11.01, 11.03, 11.04, 11.05</del>
<del>Contractor's Shop and Storage Yard</del>	<del>11.01, 11.03, 11.04, 11.05</del>
<b>Public Utility Facility</b>	11.01, 11.03, 11.04, 11.05
<b>Office Building</b>	11.01, 11.03, 11.04, 11.05
<del>Frozen Food Locker</del>	11.01, 11.03, 11.04, 11.05
<b>Printing Plant</b>	11.01, 11.03, 11.04, 11.05
<b>Motor Vehicle Service Station</b>	11.01, 11.03, 11.04, 11.05
<del>Billboard Signs</del>	<del>11.01, 11.06</del>
<b>Electrical Substation</b>	11.01 Opaque screen, six feet in height, located as far back as all setback lines.
<del>Bus/Truck Terminal</del>	<del>11.01, 11.03, 11.04, 11.05</del> <del>Located 300 feet from a residential district to minimize effects of diesel fumes and noise.</del>
<b>Warehouse, Mini-Warehouse</b>	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.
<del>Lumberyard</del>	11.01, 11.03, 11.04, 11.05 Subject to screening of all outdoor storage from view when abutting a residential district.
<b>Truck/Bus Wash</b>	11.01, 11.03, 11.04, 11.05 All water from the truck or bus wash being contained on the site.
<b>Truck Repair, Sales, and Service</b>	11.01, 11.03, 11.04, 11.05 Subject to no unscreened outdoor storage of parts.
<b>Farm Store or Feed Store</b>	11.01, 11.03, 11.04, 11.05 Only accessory storage of fertilizer or farm chemicals on the site.
<del>Recycling Collection or Processing Facility</del>	11.01, 11.03, 11.04, 11.05 Screening of all recyclable material from view.

**Commented [JD1]:** Need definition for 'frozen food locker'

**Commented [JD2]:** Why have 'billboard'? This is already regulated through the sign ordinance.

**Commented [JD3]:** Need definition for 'mini-warehouse'

**Commented [JD4]:** Need definition for 'lumberyard'

**Commented [JD5]:** Need definition for 'truck repair, sales, and service'

Permitted Uses	Applicable Standards
<del>Automobile Storage Yard</del>	<del>11.01, 11.03, 11.04, 11.05</del> <del>Screening of the storage yard with fence, berm, vegetation or placement on the lot.</del>
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.
<del>Motor Vehicle Repair Shop</del>	<del>11.01, 11.03, 11.04, 11.05</del> <del>An adequate number of parking spots to store the cars and screen parts and materials from view.</del>

Commented [JD6]: Amend definition to include ALL three uses

## 6.2 Conditional Uses

Conditional Uses	Applicable Standards
Wireless Communication Facility	11.01, 11.08, 16.01
Telecommunications Tower	11.01, 11.08, 16.01
<del>Storage Facility</del>	<del>11.01, 11.03, 11.05, 16.01</del>
Ready-Mix Plant	11.01, 11.03, 11.05, 16.01
Wind Energy Conversion System	11.01, 11.13, 16.01
Grain Terminal/Grain Processing	11.01, 11.03, 11.04, 11.05, 16.01
Agribusiness	11.01, 11.03, 11.04, 11.05, 16.01
<u>Light Manufacturing</u>	<u>11.01, 11.03, 11.04, 11.05, 16.01</u>
<u>Contractor's Shop and Storage Yard</u>	<u>11.01, 11.03, 11.04, 11.05, 16.01</u>
<u>Bus/Truck Terminal</u>	<u>11.01, 11.03, 11.04, 11.05, 16.01</u> <u>Located 300 feet from a residential district to minimize effects of</u>
<u>Recycling Processing Facility</u>	<u>11.01, 11.03, 11.04, 11.05, 16.01</u> <u>Screening of all recyclable material from view.</u>
<u>Automobile Storage Yard</u>	<u>11.01, 11.03, 11.04, 11.05, 16.01</u> <u>Screening of the storage yard with fence, berm, vegetation or</u>
<u>Motor Vehicle Repair Shop</u>	<u>11.01, 11.03, 11.04, 11.05, 16.01</u> <u>An adequate number of parking spots to store the cars and screen</u>

Commented [JD8]: This should be removed from CU. Warehouses and mini-warehouses are "storage facilities" and those are already permitted uses. I don't know what other kind of "storage facility" we could have.

Commented [JD7]: Amend definition of 'storage facility' to include 'warehouse' and 'mini-warehouse' uses

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Commented [JD9]: Need definition for 'grain processing'

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## 6.3 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 #3	10 feet see #1	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.

#### 14.4 Hearing by Board of County Commissioners and City Council

The Board of County Commissioners and the City Council shall jointly conduct ~~a~~all public hearings for all readings of an ordinance to act on all applications which have been processed and forwarded to them for public hearings as provided in these regulations. The County Auditor shall cause to be published ~~a~~ all notices 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 days prior to the scheduled hearing.
- B. Hearing. Upon the day of ~~any 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. At the final reading. 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 months from the date of the final action of the Board of County Commissioners and City Council.

# 19

## DEFINITIONS

### 19.1 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.

### 19.2 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 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 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 provides 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 - A lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 90 days or more during any 12 month period; and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility. For the purpose of these regulations, a concentrated animal feeding operation ~~is further defined as follows: size is defined in Section 11.14 Concentrated Animal Feeding Operations Table 1.~~

Commented [JD1]: This definition was missing a part. I just added what I thought was meant to say.

CONCENTRATED ANIMAL FEEDING OPERATION - EXISTING. A non-permitted operation of at least 200 animal numbers which existed prior to the effective date of this Ordinance

CONCENTRATED ANIMAL FEEDING OPERATION - NEW. An operation which did not exist prior to the effective date of this Ordinance.

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 by the square footage of usable space available. The ratio is presently thirty-five square feet per child indoors and fifty 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 adults or six children under fourteen. Included in that count are the providers' own children six years and under. See (Home Occupation).

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

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 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 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 ten acres in size.

FARM IMPLEMENT ~~DEALER-SALES, DISPLAY AND SERVICE~~ - 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.

Commented [JD2]: To match use in LI

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 inches, with concrete block or poured walls of a height of not less than eight 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.

**FROZEN FOOD LOCKER -**

**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 fifteen 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.

**Commented [JD3]:** I have not been able to find a definition for this. I know what it is, but I don't know how to define it. I checked with SECOG and have not received a suggestion from them.

GRAIN PROCESSING – A series of physical activities carried out for refining agricultural grains into foods for human consumption, animal feeds, nutraceuticals, personal care products, alcohol, ethanol, and various other by-products.

Commented [JD4]: We didn't have this defined.

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 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 Section 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 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 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.

**LUMBERYARD** – The use of land and/or buildings for the storage and retail sale of building materials.

Commented [JD5]: We didn't have this defined.

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 a Concentrated 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.

MINI-WAREHOUSE – A completely enclosed building or series of completely enclosed buildings consisting of separate storage units which are rented to customers having exclusive and independent access to their respective units for the storage of residential, recreational, or commercial oriented goods.

Commented [JD6]: New definition - this is SECOG's recommendation.

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 sixteen 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 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 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 feet or less below the land surface with fifteen 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 feet but less than one hundred feet below the land surface with thirty 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. These include warehouses and mini-warehouses.

Commented [JD7]: These uses are a type of 'storage facility'

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 feet above grade as defined herein for more than fifty percent of the total perimeter or is more than twelve 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 feet, and a body length not exceeding thirty 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.

TRUCK REPAIR, SALES, AND SERVICE – The use of any building, land area, or premises, for the display, sale, of new or used trucks, and including any warranty repair work and other repair service conducted as an accessory use. The sale and display of inoperable trucks is not allowable as part of this use category.

Commented [JD8]: Need definition - this matches the City's

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.

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

**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.

**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 than 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 LINE** - See (Building Line).

**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.

# *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** August 29, 2022

**Subject:** Appointment of City and County Planning and Zoning Commission Members to Joint Committee to Discuss Goals, Objectives, and Policies for the Joint Jurisdiction Area's Comprehensive Plan

**Presenter:** Jose Dominguez

**Background:** On June 1<sup>st</sup> the City and County governing bodies met to discuss how to improve the Joint Zoning agreement between the City and the County. Along with possible changes to the JJZA ordinance the governing bodies agreed to create a small group consisting of planning commission members, members of the governing bodies, and staff. This smaller group would then be able to review the JJZA comprehensive plan and if necessary, propose amendments to the JJZA's comprehensive plan.

The City and County have tried this approach in the past. Most recently on October 26, 2020, a "small committee" was formed consisting of two City Planning Commission members, two County Planning Commission members, and staff. SECOG assisted with the meetings and served as facilitators. This group was created to review the JJZA comprehensive plan and propose amendments to the joint City and County Planning Commissions for their review and recommendation to the governing bodies. The last meeting this group held was in March 2021.

**Discussion:** Through the goals, objectives, and policies, the JJZA's comprehensive plan provides direction for future planning and land uses in the JJZA. To expedite the process and allow for fruitful discussion, a smaller group consisting of members of the respective planning commissions, governing bodies, and staff will be created. This group will review the comprehensive plan and propose any amendments to the full City and County Planning Commission for their review and recommendation to the governing bodies. As previously, SECOG will provide assistance and direct the discussions at some of the meetings.

The dates and times for the meetings will be discussed in the following agenda item tonight.

**Compliance with Comprehensive Plan:** Although not required by law, a comprehensive plan should be updated periodically. As a general rule, comprehensive plans have a lifespan. The intention of having a lifespan for the comprehensive plan is that as time passes the area discussed in the document may experience enough change (such as social, economic, governing body policies, etc...) for the plan to be updated. A comprehensive plan essentially sets the goals, and expectations, of the governing entities for certain areas. As time passes, these goals and expectations may change, so the document would need to be updated to reflect these changes.

It should also be noted that comprehensive plans do not expire once their lifespan has passed. The plan is still the guiding document until it is replaced by a newer document.

**Conclusion/Recommendations:** The City Planning Commission is asked to recommend two Commissioners to the joint committee that would work with the two delegates from the County Planning Commission in creating goals, objectives, and policies for the Joint Jurisdiction Area's comprehensive plan. As mentioned previously, the governing bodies will also have two members each to also meet with the appointed Planning Commission members, staff and SECOG.

# *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** August 29, 2022

**Subject:** Set Dates for Joint Committee to Work with SECOG on the Joint Jurisdiction Area's Comprehensive Plan.

**Presenter:** Jose Dominguez

**Background:** On June 1<sup>st</sup> the City and County's governing bodies met to discuss how to improve the Joint Zoning agreement between the City and the County. Along with possible changes to the JJZA ordinance the governing bodies agreed to create a small group consisting of planning commission members, members of the governing bodies, and staff. This smaller group would then be able to review the JJZA comprehensive plan and if necessary, propose amendments to the JJZA's comprehensive plan.

**Discussion:** City staff reached out to SECOG for dates that they would be available. Based on the conversation they would be able to attend a meeting on most Mondays and Tuesdays between 3pm and 5pm. City Staff believes that SECOG does not need to be present at ALL the meetings and that those that SECOG is not present for can be led by City/County Staff.

Schedule availability will still need to be discussed with the members appointed from the governing bodies.

**Compliance with Comprehensive Plan:** Although not required by law, a comprehensive plan should be updated periodically.

**Conclusion/Recommendations:** The City and County Planning Commissions are asked to come up with meeting dates. City Staff recommends two meetings per month. One on the first Tuesday of the month and the second meeting on the third Tuesday of the month. City Staff also recommends that the meetings start at 3:30 p.m. and only last an hour. City Staff believes that six to eight meetings should be sufficient to have a list of recommended goals, objectives, and policies to the entire membership of the joint City and County Planning Commissions.