

ORDINANCE 1409

ADOPTING COMPREHENSIVE ZONING REGULATIONS AND DELETING THE EXISTING ZONING ORDINANCE ADOPTED ON JULY 7, 2008 WITH THE ADOPTION OF ORDINANCE 1189, AND AS AMENDED.

BE IT ORDAINED, by the Governing Body of the city of Vermillion, South Dakota that the Code of Ordinances Chapter 155, Zoning Regulations, be deleted and replaced as follows:

CHAPTER 155: ZONING REGULATIONS

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GENERAL PROVISIONS

§ 155.001 TITLE AND APPLICATION.

These regulations shall be referred to as the Zoning Ordinance of the City of Vermillion.

§ 155.002 JURISDICTION.

The provisions of this chapter shall apply to all territory within the boundaries of the city, as established on the official zoning map of the city.

§ 155.003 PURPOSE.

(A) These regulations have been based upon the Vermilion Comprehensive Plan adopted and in conformance with SDCL Chapter 11-4 and 11-6. These regulations are designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

(B) This chapter is intended:

- (1) To promote sustainable community and regional land use and design;
- (2) To secure safety from fire, panic and other dangers;
- (3) To promote health and the general welfare; and
- (4) To facilitate the adequate provision of transportation, water, sewers, school, parks and other public necessities.

§ 155.004 PROVISIONS AS MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standards, shall govern.

§ 155.005 SEPARABILITY CLAUSE.

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

§ 155.006 REPEAL OF CONFLICTING ORDINANCES.

All prior ordinances or parts of prior ordinances in conflict with this chapter are hereby declared repealed.

§ 155.007 EFFECTIVE DATE.

These regulations shall be in full force and effect from and after their passage, approval, publication and effective date of this chapter, as provided for by state law.

§ 155.008 DEFINITIONS.

(A) *Purpose.* In the application of this chapter, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

- (1) Words used in the present tense shall include the past and future.
- (2) Words used in the singular number shall include the plural number and the plural, the singular.
- (3) The word “shall” is mandatory and not discretionary.
- (4) The word “may” is permissive.
- (5) The words “used” or “occupied” shall include the words “intended,” “designed,” or “arranged to be used or occupied.”
- (6) The word “lot” shall include the words “plot,” “parcel,” or “tract.”
- (7) The word “person” shall include a “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as an “individual.”

(8) The word “building” shall include the words “structure” and “premises.”

(9) Any word not herein defined shall be as defined in any recognized standard English dictionary.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING. 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. An accessory building or use is one which:

- (1) Is customary and clearly incidental to the principal use;
- (2) Serves exclusively the principal use;
- (3) Is subordinate in area, extent or purpose to the principal use served;
- (4) Contributes to the comfort, convenience, or necessity of occupants of the principal use served; and
- (5) Is located on the same zoning lot as the principal use served.

ACTIVITY. Any application for a permit under this chapter or any development or use encompassed within the jurisdiction of this chapter.

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 semi-nudity.
- (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 DAY SERVICES. A facility that provides structure activities, care and supervision outside of the home for part of the day. Such services can be co-located within a senior center, nursing facility, assisted living, hospital, church, day care center, or by a stand-alone program.

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 business operation, consisting of 40-acres or more, and/or an agricultural related business embracing production, processing, and distribution of agriculture products; and/or the manufacture of farm machinery, equipment, and supplies; and/or entities engaged in the breeding, producing or marketing of fish or their products.

AGRICULTURE. The production, keeping, or maintenance, for sale, lease or personal use, of plants and land useful to man, including but not limited to: forages sod crops; grains and seed crops; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

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

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.

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 5 or more games as an accessory use.

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 storage of vehicles, which are impounded, and licensed, in an unroofed area. The vehicles may be stored for a total of three months out of the year.

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

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.

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

BOARDING HOUSE, (or LODGING HOUSE, ROOMING HOUSE). 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 3 or more persons. See **BED AND BREAKFAST ESTABLISHMENT.**

BROADCAST TOWER. A structure, not including offices or studio, for the transmission of radio or television broadcast communications.

BUILDABLE AREA. The 3-dimensional space within which a building is permitted to be built on a lot and which is defined by maximum height regulations and yard setback regulations.

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 measured from the average ground elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE. A line parallel to the curb line touching that part of a building or parking lot closest to the street. The line may be at the setback line or further.

BUILDING PERMIT. A document signed by the Zoning Administrator 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 municipal 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 1 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.

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

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

CAMPGROUND, (or TRAVEL TRAILER PARKING AREA). A plot of ground for public use upon which 2 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 living quarters for no more than three contiguous months out of a year.

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

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 codes and ordinances.

CEMETERY. Land use for interment of human or animal remains or cremated remains, including a burial park, a mausoleum, a columbarium, necessary sale and maintenance facilities or a combination thereof. Crematories and mortuaries may also be included when operated within the cemetery boundary and complying with the standards of this ordinance.

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

CHURCH. A structure(s) 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 **CHURCH** by reason of design, signs, or architectural or other features.

CITY COUNCIL. The Board of City Councilmembers.

CLINIC. An establishment where patients are admitted for examination and treatment by 1 or more physicians, dentists, psychologists, optometrists, social workers, and the like, and where patients are not 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.

COMMISSION. The City Planning and Zoning Commission.

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.

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

CONTAMINANT. Any "regulated substance," as defined by SDCL § 34A-12-1(8), as in effect on the date of passage of this chapter 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.

CONVENT AND 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.

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, for 21 or more children on a regular basis for part of a day as a supplement to regular parental care.

DAY CARE, FAMILY. The provision of regular care and supervision of no more than 12 children, including the provider's own children who are under the age of six years, for part of a 24-hour period as a supplement to regular parental care. See **HOME OCCUPATION**.

DAY CARE, GROUP. A facility where regular supervision of 13 to 20 children is provided for part of a 24-hour period as a supplement to regular parental care.

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. A part, zone, or geographic area of the city within which certain zoning or development regulations apply.

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.

DRUG STORE, (or PHARMACY). An establishment which prepares and dispenses medicines and sells customary health products.

DWELLING. A building, or portion, thereof, used exclusively for human habitation, including single-family, 2-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses.

DWELLING, MULTIPLE-FAMILY, (or APARTMENTS, DUPLEX, 3-PLEX, 4-PLEX, MULTI-FAMILY, CONDOMINIUMS). A building, or portion thereof, containing 2 or more dwelling units that may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums or offered for rent.

DWELLING, SINGLE-FAMILY ATTACHED, (or TOWNHOUSE, TOWNHOME, TWIN HOME). A single family dwelling owned separately and attached to 2 or more single family dwellings by common vertical walls. Each dwelling shall be in its own lot.

DWELLING, SINGLE-FAMILY DETACHED. A dwelling which is designed for and occupied by not more than 1 family and is surrounded by yards and is not attached to any other dwelling by any means.

DWELLING UNIT. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household.

ELECTRICAL SUBSTATION. A premises that 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.

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 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 6 persons under 18 years of age, residing in a foster home licensed or approved by a governmental agency;
- (3) Not more than 4 persons 18 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 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. The residential facilities shall be licensed by the state and proof of the 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, (or 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.

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 the space is used for storage or incidental uses.

FRATERNITIES AND SORORITIES. A building, other than a hotel, that is arranged, intended or designed to be occupied as a residence for a group of more than five members who reside therein and recognized as a chartered chapter by a national or international organization or society.

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

FROZEN FOOD LOCKER. A place where an animal is dressed and packaged, where no rendering or refining is done.

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

FUNERAL HOME, (or MORTUARY). A place for the storage of human bodies prior to their burial or cremation, in which the dead are prepared for burial, or cremation, and in which wakes and funerals may be held. Cremations do not occur within the premises.

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.

GARAGE, PRIVATE. An accessory building designed or used for the storage of not more than 4 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.

GENERAL MANUFACTURING. Those manufacturing processes 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, (or NURSERY). 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.

GROUP HOME. A supervised living or counseling arrangement in a dwelling context providing for the 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 chapter, 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 chapter.

HEAVY MANUFACTURING. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors. These may include manufacture of acid, alcohol, ammonia, asphalt, bleach, cement, chlorine, dye stuff, explosives, fertilizer, glue, gypsum, lime, oils, plaster of Paris, shellac, sizing, turpentine, yeast, boiler, paper manufacturing, smelting, electric transformers, ready-mix concrete plant, or machinery.

HOME OCCUPATION. Any occupation carried on by a member of the immediate family residing on the premises, in accordance with § 155.078.

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.

JUNKYARD. Any lot, land, parcel or portion thereof, used for the storage, wrecking, dismantling, salvage, collection, processing, purchase, sale, or exchange of abandoned or discarded vehicles, goods, waste, and scrap materials, including but not limited to: 2 or more abandoned or inoperable motor vehicles, waste paper, rags, glass, tires, wood, lumber, appliances, machinery, or automotive and mechanical parts. A **JUNKYARD** does not include operations entirely enclosed within buildings.

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 blue grass/creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

LIBRARIES. A place in which literary, musical, artistic, or reference materials are kept for use. The building may also be used by the general public, private organizations and private clubs to conduct meetings.

LIGHT MANUFACTURING. Those manufacturing processes, which do not generate any more dust, odor, noise, vibration, pollution, smoke, heat or glare than that found in a typical commercial area. These industrial uses are characterized by having all aspects of the process carried on within the building itself.

LIMITED PRODUCTION. Assembly, packaging, research, development, or similar uses which are conducted indoors and which would not be disruptive of, or incompatible with, other

office, retail, or service uses that may be in the same building or on adjacent property. Limited production does not include industrial processing from raw materials.

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 chapter, which may include 1 main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place.

LOT AREA. 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 2 or more streets at their intersection, or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE. A lot that abuts a street on 2 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 that 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 10 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 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 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 the Register of Deeds prior to the effective date of this chapter.

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

MAP, OFFICIAL ZONING. The map or maps, which are legally adopted as a part of the 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 limit lines.

MANUFACTURED HOME, (or MOBILE HOMES, PARK TRAILERS, TRAVEL TRAILERS). A structure that is transportable in one or more sections, built on a permanent

chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Mobile Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. A manufactured home may only be located within a licensed manufactured home park. **MANUFACTURED HOME PARK, LICENSED.** A contiguous parcel of land operated as a unit, under the same ownership where lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the city.

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 Chapter 36-4 or a podiatrist licensed pursuant to SDCL Chapter 36-8.
- (2) Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Chapter 36-9.
- (3) Physician assistants who are licensed pursuant to SDCL Chapter 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Chapter 36-9A.
- (4) Physical therapists licensed pursuant to SDCL Chapter 36-10.
- (5) Athletic trainers licensed pursuant to SDCL Chapter 36-29.
- (6) Massage therapists licensed pursuant to SDCL Chapter 36-35.
- (7) Chiropractors licensed pursuant to SDCL Chapter 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-site 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.

MIXED-USE BUILDING. A building with **NON-COMMERCIAL, NON-CONSTRUCTION AND NON-INDUSTRIAL OFFICES**, or **RETAIL SERVICES AND TRADE**, on the first floor and residential uses on the above floors.

MOTEL, (or HOTEL, MOTOR LODGE, MOTOR COURT, TOURIST COURT). An establishment consisting of a group of living or sleeping accommodations with each sleeping unit having a bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. The establishment shall furnish customary services such as maid service and laundering of linen, and the use and upkeep of furniture. Less than 50% of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. Parking spaces are located in the lot, and are designed, used or intended wholly or in part for the accommodation of guests.

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 1 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 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 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 **JUNKYARD**.

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.

MUNICIPALLY OWNED AIRPORT. A place owned and maintained by the city where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including heliports.

MUNICIPALLY OWNED WASTE WATER TREATMENT FACILITY. A facility for the treatment of public wastewater.

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 adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

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. **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 3 days in advance of a class in order to participate.
- (3) No more than 1 nude or semi-nude model is on the premises at any time.

NUDE, NUDITY OR STATE OF NUDITY.

- (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.

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.

OFFICES, COMMERCIAL, CONSTRUCTION AND INDUSTRIAL. A building designed for or used as the office of commercial, industrial or construction organizations.

OFFICES, NON-COMMERCIAL, NON-CONSTRUCTION AND NON-INDUSTRIAL. A building designed for or used as the office of professional, financial, religious, institutional, public, or semi-public persons or organizations. Broadcast stations, offices, and studios shall be considered to non-commercial, non-construction and non-industrial offices.

OFF-PREMISE PARKING. Parking provided for a specific use but located on a site not abutting, and/or not owned by the same owner on which the specific use is located. Vehicles must be moved monthly.

OFF-PREMISE SIGN. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

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 that has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special 1-day liquor or special malt beverage licenses.

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

PARKING SPACE. A hard-surfaced area, off the street right-of-way, and accessible from a street, road or alley, with minimum dimensions of 9 feet wide and 18 feet long, and permitted ingress and egress of an automobile. A required parking space and driveway shall be paved or surfaced with Portland cement concrete or asphaltic concrete, and shall be a thickness of at least 5 inches. An access driveway between a curb and sidewalk line shall be paved with Portland cement concrete. All spaces shall meet the minimum criteria as prescribed by this chapter and the City Engineer, and equivalent materials and methods other than those listed may only be used if approved by the City Engineer.

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.

PLANNING AND ZONING COMMISSION. The duly designated Planning Board responsible for reviewing and approving applications for development and preparation of master plans and ordinances.

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.

PRINT SHOP, (or PRINTING PLANT). A commercial printing operation that makes reproductions involving the use of a printing press and the making of photographic plates.

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 PARK AREAS. A tract of land owned by a government entity and available to the general public for recreational purposes.

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, 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 includes sifting, crushing, and washing and bagging.

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.

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 that 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 that handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

REFINING. A process in which a substance is reduced to a pure state or perfected through the elimination of impurities.

RESIDENCE. A permanent dwelling place.

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, convenience stores, grocery stores, butcher shop and other miscellaneous services. On-sale or off-sale alcoholic beverage establishments are not included.

RESTAURANT. An establishment where food and drink is prepared, served, and consumed primarily within the principal use.

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.

ROADSIDE STANDS. A structure that is not permanently affixed to the ground and is readily removable in its entirety, that is used solely for the display and sale of farm products. No roadside stand shall be more than 300 square feet in ground area and there shall be not more than one roadside stand on any one premise.

ROOMING HOUSE. See **BOARDING HOUSE.**

SCHOOLS. Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

SEMI-NUDE. 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 50 feet or less below the land surface within 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 chapter; or, the aquifer is greater than 50 feet but less than 100 feet below the land surface with 30 feet or less of continuous overlying low to extremely low permeability geological material that may be a combination of weathered and un-weathered till, shale, or till and shale.

SNOW FENCE. Temporary fencing constructed of wood and wire and/or plastic that does not enclose a portion of the yard.

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 definition.

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.

STORAGE FACILITY. A structure or structures containing separate storage spaces, which may be of varying sizes, leased or rented on an individual basis.

STORY. The 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 6 feet above grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, the basement cellar or unused under-floor space shall be considered a story.

STREET. A public way that 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 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, (or PETROLEUM PRODUCTS TERMINAL). An open-air facility containing a number of above-ground, large containers for the bulk storage in liquid form of petroleum products. The material may be delivered to the site by truck traffic or through a pipe line.

TELECOMMUNICATIONS TOWER. A self-supporting lattice, guyed-lattice, or monopole structure that 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, 2-way radio paging, and other similar services. **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 lot of record for which the telecommunications tower is located.

THEATER. An establishment that is used for the showing of motion pictures, plays or musical dramas.

TRAVEL TRAILER.

(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 8 feet, and a body length not exceeding 30 feet.

(2) **PICKUP 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 chapter and meets or exceeds the minimum specifications according to tree type.

TRUCK REPAIR, SALES, AND/OR 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 or display of inoperable trucks is not allowable as part of this use category, see **JUNKYARD**.

USE, ACCESSORY. See **ACCESSORY BUILDING OR USE**.

USE, CONDITIONAL. A use that, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. After due consideration, as provided for in this chapter, of the impact of the use upon neighboring land and of the public need for the particular use at a particular location, the conditional use may or may not be granted.

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

USE, PRINCIPAL. The main use of land or buildings as distinguished from a subordinate or accessory use. **PRINCIPAL USE** includes off-premise advertising.

VETERINARIAN, LARGE ANIMAL. A person qualified and authorized to prevent, cure or alleviate disease and injury in horses, zoo animals, livestock, or other farm animals. Besides the medical care given to animals, a veterinarian may also board, or kennel, animals for a month at a time.

VETERINARIAN, SMALL ANIMAL. A person qualified and authorized to prevent, cure or alleviate disease and injury in companion animals that live inside or near people's homes. Besides the medical care given to animals, a veterinarian may also board, or kennel, animals for a month at a time.

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, semi-solid, 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.

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). An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnections, battery banks and the like in a configuration as necessary to convert the power of wind into mechanical or electrical energy. WECS are also known as wind chargers, windmills or wind turbines.

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, which a person seeks to locate or have installed upon or near a telecommunications tower

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 a 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, 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 SIDE. Extends between the required front yard line and the required rear yard line. There shall only be 1 required side yard on a corner lot.

YARD, REQUIRED. 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 chapter.

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 city within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

DISTRICTS AND BOUNDARIES; ZONING MAP

§ 155.025 DISTRICTS DESIGNATED.

The city is hereby divided into the following districts:

- (A) NRC Natural Resource Conservation.
- (B) R-1 Residential.
- (C) R-T Residential.
- (D) R-2 Residential.
- (E) R-3 Residential.
- (F) R-4 Manufactured Housing.
- (G) CB Central Business.
- (H) GB General Business.
- (I) NC Neighborhood Commercial.
- (J) GI General Industrial.
- (K) HI Heavy Industrial.
- (L) PD Planned Development.

§ 155.026 ADOPTION OF OFFICIAL ZONING MAP.

The official zoning map for the city, on record with the Zoning Administrator and the Finance Officer, is hereby adopted by reference and declared to be a part of this chapter. The zoning map shall include ordinance 1408 amending the zoning map.

§ 155.027 CHANGES TO OFFICIAL ZONING MAP.

Changes to or replacement of the official zoning map shall require amendment of these regulations by chapter, as provided for in § 155.101 of these regulations.

§ 155.028 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of the districts as shown on the official zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following platted lot lines or city limits shall be interpreted to follow such platted lot lines or city limits;

(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 Adjustment, as established in § 155.100 shall interpret the district boundaries.

(E) Where a district boundary line divides a lot, which was in single ownership at the time of passage of this chapter, the Board of Adjustment may permit, as an extension of the regulations for either portion of the lot into the remaining portion of the lot.

§ 155.029 ANNEXATIONS.

In all territories, which may hereafter be annexed to the city, the zoning districts, as they exist in the extraterritorial area or the county, shall be discontinued and automatically be placed in the NRC zoning district. Refer to section 155.101 to rezone the newly annexed territory.

§ 155.030 NRC NATURAL RESOURCE CONSERVATION DISTRICT.

The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to protect views, to preserve natural settings for wildlife habitats, and to add to the aesthetic and environmental quality of the community.

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Agriculture	§ 155.070
Golf course	§§ 155.070, 155.072
Public park areas	§ 155.070
Cemetery	At least 2 acres in size and adequate road system within cemetery.
	§ 155.070 and not within an identified floodplain area.
Electrical substation	An opaque screen, 6 feet in height located at all setback lines.
	§§ 155.070, 155.077
Public utility facilities	§§ 155.070, 155.072, 155.077
Wireless communications facilities	§ 155.075, not within an identified floodplain area, and if replacing facility on existing telecommunications tower the proposed facility cannot occupy a larger space than the existing facility.
Roadside stands	Subject to the seasonal sale of farm products, which are produced upon the premises.
	§ 155.070
Municipally-owned airport	§§ 155.070, 155.072, 155.073, 155.077 (See Chapter 91 of this code)

(B) *Conditional uses.*

<i>Conditional Uses</i>	<i>Applicable Standards</i>
Accessory building or use	§§ 155.071, 155.082(A), 155.095(A) and definition
Wireless communications facilities	§§ 155.075, 155.095(A), not within an identified floodplain area, and only if it is replacing existing facilities on an existing telecommunications tower but the proposed facility will occupy a larger space than the existing facility.
Municipally-owned waste water treatment facility	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Veterinarian, large animal	Located on a tract of land of not less than 10 acres and that no treatment rooms or pens for animals shall be

	maintained closer than 200 feet to any property line. * §§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Veterinarian, small animal	Located on a tract of land of not less than 10 acres and that no treatment rooms or pens for animals shall be maintained closer than 200 feet to any property line. * §§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Bed and breakfast establishment	§§ 155.070, 155.072, 155.076, 155.077, 155.080, 155.095(A)
Wind energy conversion system	§§ 155.070, 155.072, 155.077, 155.081, 155.095(A)
Telecommunications tower	§§ 155.070, 155.075, 155.077, 155.095(A), approval of conditional use permit for the telecommunications tower shall also include the installation of all wireless communication facility on the new telecommunications tower.
* Measured from the closest point of the structure to property line	

(C) *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. Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Lot Width</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
All uses	1 acre	75 feet	30 feet	8 feet	25 feet	35 feet
Exceptions:						
#1	A conditional use permit will be required for any structure having a maximum height exceeding 35 feet (§ 155.095(A))					
#2	See adjustments to yard regulations (§ 155.082) for specific exceptions					

§ 155.031 R-1 RESIDENTIAL DISTRICT.

The purpose of this district is to provide for certain low density residential areas the in the city.

(A) *Permitted use.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Dwelling, single-family detached	§§ 155.070, 155.072, 155.076, 155.077
	§§ 155.070, 155.072, 155.076, 155.077, 155.
Church	All parking lots being 8 feet from all residential uses, or zoned property. §§ 155.070, 155.072, 155.077
Libraries	All parking lots being 8 feet from all residential uses, or zoned property. §§ 155.070, 155.072, 155.077
Schools	All parking lots being 8 feet from all residential uses, or zoned property.

<i>Permitted Use</i>	<i>Applicable Standards</i>
	One of the principle frontages shall abut upon an arterial or collector street as defined by the city's major street plan map. §§ 155.070, 155.072, 155.077
Public park areas	§ 155.070
Golf course	§§ 155.070, 155.072
Neighborhood utility facility	§ 155.070
Electrical substation	§§ 155.070, 155.077
Day care, family	All applicable dwelling standards apply.
Day care, group	A safe pickup and drop off area must be provided for the children. All applicable dwelling standards apply
Group home	Structure must be a single housekeeping unit. Applicant must provide copy of state agency license. All dwelling standards apply.
Adult day services	§§ 155.070, 155.072, 155.073, 155.077, applicant must provide copy of the appropriate, and applicable, licenses from the State of South Dakota.
Wireless communications facilities	§ 155.075, not within an identified floodplain area, and if replacing facility on existing telecommunications tower the proposed facility cannot occupy a larger space than the existing facility.
Accessory building or use	§§ 155.071, 155.082 (see definition)

(B) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077, maximum of 4 structures with 2 or more single-family attached dwellings within 400-feet of proposed lot. Proposed single-family attached dwellings structure shall count towards the 4 structure maximum.
Wireless communications facilities	§§ 155.075, 155.095(A), not within an identified floodplain area, and if it is replacing existing facilities on an existing telecommunications tower but the proposed facility will occupy a larger space than the existing facility.
Public service facility	§ 155.070
Off-premise parking	§ 155.095(A)

(C) *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. Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Dwelling, single-family detached	6,500 square feet	50 feet	65 feet see #2	30 feet see #4	8 feet see #3	25 feet	35 feet
Dwelling, single-family attached	2,500 square feet	36 feet	36 feet	30 feet see #4	0 feet or 8 feet on non-party wall side	25 feet	35 feet
All other uses	7,500 square feet	50 feet	75 feet	30 feet see #4	30 feet see #1, #3	25 feet	35 feet
Exceptions:							
#1	The side yard will be required to be increased by 10 feet when the building is 3 stories in height or more.						
#2	A residence may be constructed on a lot-of-record						
#3	There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.						
#4	One required front yard may be reduced to 25 feet on corner lots.						
#5	See also adjustments to yard regulations (§ 155.082) for other specific exceptions.						

§ 155.032 R-T RESIDENTIAL DISTRICT.

(A) *Permitted uses.* The purpose of this district is to provide for single-family attached dwelling areas in the city.

<i>Permitted Use</i>	<i>Applicable Standards</i>
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077, up to 4 dwellings can be attached
Church	All parking lots being 8 feet from all residential uses, or zoned property. §§ 155.070, 155.072, 155.077
Libraries	All parking lots being 8 feet from all residential uses, or zoned property. §§ 155.070, 155.072, 155.077
Schools	All parking lots being 8 feet from all residential uses, or zoned property.
Public park areas	§ 155.070
Golf course	§§ 155.070, 155.072
Electrical substation	§§ 155.070, 155.077
Day care, family	All applicable dwelling standards apply.
Day care, group	A safe pickup and drop off area must be provided for the children. All applicable dwelling standards apply.
Adult day services	§§ 155.070, 155.072, 155.073, 155.077, applicant must provide copy of the appropriate, and applicable, licenses from the State of South

	Dakota
Neighborhood utility facility	§ 155.070
Group home	Structure must be a single housekeeping unit. Applicant must provide copy of state agency license. All applicable dwelling standards apply.
Wireless communications facilities	§ 155.075, not within an identified floodplain area, and if replacing facility on existing telecommunications tower the proposed facility cannot occupy a larger space than the existing facility
Bed and breakfast establishment	§§ 155.070, 155.072, 155.076, 155.077, 155.080, 155.095(A)
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(B) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Wireless communications facilities	§§ 155.075, 155.095(A) , not within an identified floodplain area, and if it is replacing existing facilities on an existing telecommunications tower but the proposed facility will occupy a larger space than the existing facility.
Public service facility	§ 155.070
Off-premise parking	§ 155.095(A)

(C) *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. Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Dwelling, single-family attached (see #5)	2,500 square feet	25 feet	25 feet	25 feet see #3	0 feet or 8 feet on nonparty wall side	25 feet	35 feet
All other uses	6,000 square feet	50 feet	60 feet	25 feet see #3	15 feet	25 feet	35 feet
Exceptions:							
#1	There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.						
#2	A residence may be constructed on a lot-of-record						
#3	One required front yard may be reduced to 20 feet on corner lots.						
#4	See also adjustments to yard regulations (§ 155.082) for other specific exceptions.						
#5	Every 2 units will be staggered.						

§ 155.033 R-2 RESIDENTIAL DISTRICT.

(A) *Permitted uses.* The purpose of this district is to provide for certain low to medium density residential areas in the city.

<i>Permitted Use</i>	<i>Applicable Standards</i>
Dwelling, single-family detached	§§ 155.070, 155.072, 155.076, 155.077
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077, up to 4 dwellings can be attached
Dwelling, multiple-family	§§ 155.070, 155.072, 155.076, 155.077
Church	All parking lots being 8 feet from all residential uses, or zoned property.
	§§ 155.070, 155.072, 155.077
Libraries	All parking lots being 8 feet from all residential uses, or zoned property.
	§§ 155.070, 155.072, 155.077
Schools	All parking lots being 8 feet from all residential uses, or zoned property.
	All parking lots being 8 feet from all residential uses, or zoned property.
	All parking lots being 8 feet from all residential uses, or zoned property.
Public park areas	§ 155.070
Golf course	§§ 155.070, 155.072
Hospital	§§ 155.070, 155.072, 155.073, 155.077
Clinic	§§ 155.070, 155.072, 155.073, 155.077
Private club	§§ 155.070, 155.072, 155.073, 155.077
Electrical substation	§§ 155.070, 155.077
Day care, family	All applicable dwelling standards apply.
Day care, group	A safe pickup and drop off area must be provided for the children.
	All applicable dwelling standards apply.

Adult day services	§§ 155.070, 155.072, 155.073, 155.077, applicant must provide copy of the appropriate, and applicable, licenses from the State of South Dakota
Neighborhood utility facility	§ 155.070
Group home	Structure must be a single housekeeping unit.
	Applicant must provide copy of state agency license.
	All applicable dwelling standards apply.
Wireless communications facilities	§ 155.075, not within an identified floodplain area, and if replacing facility on existing telecommunications tower the proposed facility cannot occupy a larger space than the existing facility
Bed and breakfast establishment	§§ 155.070, 155.072, 155.076, 155.077, 155.080, 155.095(A)
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(B) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Fraternities and sororities	§§ 155.070, 155.072, 155.076, 155.077
Assisted-living center and congregate care facility	Applicant must provide copy of South Dakota Department of Health license. All multiple dwelling standards apply.
	§§ 155.070, 155.072, 155.077, 155.095(A)
Nursing home	Applicant must provide copy of South Dakota Department of Health license.
	§§ 155.070, 155.073, 155.077, 155.095(A)
Wireless communications facilities	§§ 155.075, 155.095(A), not within an identified floodplain area, and if it is replacing existing facilities on an existing telecommunications tower but the proposed facility will occupy a larger space than the existing facility.
Public service facility	§ 155.070
Off-premise parking	§ 155.095(A)

(C) *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. Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Dwelling, single-family detached (see #2)	6,500 square feet	50 feet	65 feet see #2	25 feet see #3	8 feet	25 feet	35 feet
Dwelling, single-family attached (see #5)	2,500 square feet	25 feet	25 feet	25 feet see #3	0 feet or 8 feet on nonparty wall side	25 feet	35 feet
Dwelling, multiple-family (maximum of 16 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	7,500 square feet	50 feet	75 feet	25 feet see #3	8 feet side	25 feet	35 feet
Boarding house	7,500 square feet	50 feet	65 feet	25 feet see #3	8 feet	25 feet	35 feet
Fraternities and sororities	7,500 square feet	50 feet	65 feet	25 feet see #3	8 feet	25 feet	35 feet
All other uses	6,000 square feet	50 feet	60 feet	25 feet see #3	15 feet	25 feet	35 feet

Exceptions:

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

#2 A residence may be constructed on a lot-of-record

#3 One required front yard may be reduced to 20 feet on corner lots.

#4 See also adjustments to yard regulations (§ 155.082) for other specific exceptions.

#5 Every 2 units will be staggered.

§ 155.034 R-3 RESIDENTIAL DISTRICT.

The purpose of this district is to provide for certain high density residential areas in the city

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
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Dwelling, single-family detached	§§ 155.070, 155.072, 155.076, 155.077
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077, up to 8 dwellings can be attached
Dwelling, multiple-family	§§ 155.070, 155.072, 155.076, 155.077
Boarding house	§§ 155.070, 155.072, 155.076, 155.077
Fraternities and sororities	§§ 155.070, 155.072, 155.076, 155.077
Church	All parking lots being 8 feet from all residential uses, or zoned property.
	§§ 155.070, 155.072, 155.077
Libraries	All parking lots being 8 feet from all residential uses, or zoned property.
	§§ 155.070, 155.072, 155.077
Schools	All parking lots being 8 feet from all residential uses, or zoned property.
	One of the principle frontages shall abut upon an arterial or collector street as defined by the city's major street plan map.
	§§ 155.070, 155.072, 155.077
Public park areas	§ 155.070
Golf course	§§ 155.070, 155.072
Hospital	§§ 155.070, 155.072, 155.073, 155.077
Clinic	§§ 155.070, 155.072, 155.073, 155.077
Private club	§§ 155.070, 155.072, 155.073, 155.077
Electrical substation	§§ 155.070, 155.077
Day care, family	All applicable dwelling standards apply.
Day care, group	A safe pickup and drop off area must be provided for the children
	§§ 155.070, 155.072, 155.076, 155.077
Adult day services	§§ 155.070, 155.072, 155.073, 155.077, applicant must provide copy of the appropriate, and applicable, licenses from the State of South Dakota.
Neighborhood utility facility	§ 155.070
Group home	Structure must be a single housekeeping unit. Applicant must provide a copy of state agency license.
	§§ 155.070, 155.072, 155.076, 155.077

Assisted living center and congregate care facility	§§ 155.070, 155.072, 155.077, 155.095(A) Applicant must provide copy of South Dakota Department of Health license. All multiple dwelling standards apply.
Bed and breakfast establishment	§§ 155.070, 155.072, 155.076, 155.077, 155.080, 155.095(A)
Convent/monastery	§§ 155.070, 155.072, 155.077
Wireless communications facilities	§ 155.075, not within an identified floodplain area, and if replacing facility on existing telecommunications tower the proposed facility cannot occupy a larger space than the existing facility.
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(B) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Nursing home	§§ 155.070, 155.072, 155.077, 155.095(A) Applicant must provide copy of South Dakota Department of Health license.
Wireless communications facilities	§§ 155.075, 155.095(A) , not within an identified floodplain area, and if it is replacing existing facilities on an existing telecommunications tower but the proposed facility will occupy a larger space than the existing facility.
Public service facility	§ 155.070
Off-premise parking	155.095(A)

(C) *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. Values listed are minimums, unless otherwise stated

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>

Dwelling, multiple-family (maximum of 32 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	7,500 square feet	50 feet	60 feet	30 feet see #3, #5	15 feet	25 feet	60 feet
Dwelling, multiple-family (between 33 and 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	20,000 square feet	50 feet	70 feet	30 feet see #3, #5	15 feet	25 feet	60 feet
Dwelling, multiple-family (over 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	30,000 square feet	50 feet	85 feet	30 feet see #3, #5	15 feet	25 feet	60 feet
Dwelling, single-family detached	7,500 square feet	50 feet	60 feet	30 feet see #3	8 feet	25 feet	45 feet
Dwelling, single-family attached (see #6)	2,500 square feet	25 feet	25 feet	30 feet see #3	0 feet or 10 feet on nonparty wall side	25 feet	45 feet
All other uses	7,500 square feet	50 feet	75 feet	30 feet see #3	10 feet	25 feet	45 feet
Exceptions:							
#1 A residence may be constructed on a lot-of-record.							
#2 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.							
#3 One required front yard may be reduced to 20 feet on corner lots.							
#4 See also adjustments to yard regulations (§ 155.039) for other specific exceptions.							
#5 More than one main building per lot may be constructed.							
#6 Every 2 units will be staggered.							

§ 155.035 R-4 MANUFACTURED HOUSING DISTRICT

The purpose of this district is to provide for manufactured housing areas in the city.

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Manufactured home park, licensed	§§ 155.070, 155.071, 155.072, 155.077, 155.079
	Municipal code regulations regarding manufactured home parks.
Manufactured home	§§ 155.070, 155.071, 155.072, 155.077, 155.079
	Municipal code regulations regarding manufactured home parks.
Electrical substation	§§ 155.070, 155.077
Church	One of the principle frontages shall abut upon an arterial or collector street.
Schools	One of the principle frontages shall abut upon an arterial or collector street. §§ 155.070, 155.072, 155.077, 155.095(A)
Day care, family	All applicable dwelling standards apply.
Day care, group	A safe pickup and drop off area must be provided for the children.
Adult day services	§§ 155.070, 155.072, 155.073, 155.077, applicant must provide copy of the appropriate, and applicable, licenses from the State of South Dakota.
Group home	Structure must be a single housekeeping unit. Applicant must provide a copy of state agency license. § 155.095(A)
Accessory building or use	§§ 155.070, 155.072, 155.077, 155.095(A)

(C) *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. Values listed are minimums, unless otherwise stated

	<i>Lot Area</i>	<i>Building Line</i>	<i>Frontage</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Residential uses	6,000 square feet	60 feet	50 feet	25 feet	8 feet	25 feet	35 feet
All other uses	6,000 square feet	60 feet	50 feet	25 feet	15 feet	25 feet	35 feet
Exceptions:							
(1) One required front yard may be reduced to 20 feet.							
(2) See also adjustments to yard regulations (§ 155.082 for other specific exceptions).							

§ 155.036 CB CENTRAL BUSINESS DISTRICT.

The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to preserving the city's Main Street Commercial Core. The grouping of uses is intended to preserve and improve the character and economic vitality of Main Street.

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Retail services and trade	§§ 155.070, 155.072, 155.077
Offices, commercial, construction and industrial	§§ 155.070, 155.072, 155.077
Offices, non-commercial, non-construction and non-industrial	§§ 155.070, 155.072, 155.077
Personal services	§§ 155.070, 155.072, 155.077
Motel	§§ 155.070, 155.072, 155.077
Public utility facilities	§§ 155.070, 155.072, 155.073, 155.077
Public service facility	One of the principle frontages shall abut upon an arterial or collector street as defined by the city's major street plan map.
	§ 155.070
Funeral home	§§ 155.070, 155.072, 155.077
Private club	§§ 155.070, 155.072, 155.077
Church	§§ 155.070, 155.072, 155.077
Dwelling, multiple-family	Being above or below the first floor.
	§§ 155.070, 155.072, 155.077
Print shop	§§ 155.070, 155.072, 155.077
Electrical substation	§§ 155.070, 155.077
Arcade	§§ 155.070, 155.072, 155.077
Boarding house	Subject to the residence being constructed above the first floor.
	§§ 155.070, 155.072, 155.077
Off-sale alcoholic beverage establishment	Located at least 500 feet from a school (measured from the closest point of the outside walls of both structures). *
	§§ 155.070, 155.072, 155.077
Motor vehicle service station	§§ 155.070, 155.072, 155.073, 155.077
Day care center	Adequate and safe playground area with a fence 4 feet high (see § 155.074). A safe pickup and drop off area must be provided for the children.
	§§ 155.070, 155.072, 155.077
Motor vehicle repair	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired.
	§§ 155.070, 155.072, 155.073, 155.077

On-sale alcoholic beverage establishment	Located at least 500 feet from a school (measured from the closest point of the outside walls of both structures)*
	§§ 155.070, 155.072, 155.077
Theatre	§§ 155.070, 155.072, 155.077
Accessory building or use	§§ 155.071, 155.082(A) (see also definition)
Wireless communications facilities	§ 155.075, not within an identified floodplain area, and if replacing facility on existing telecommunications tower the proposed facility cannot occupy a larger space than the existing facility.
Restaurant	§§ 155.070, 155.072, 155.073, 155.077
Commercial parking lot/facility	§§ 155.070, 155.072, 155.077

(B) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Fuel dispensing station	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A), approval of conditional use permit for the fuel dispensing station shall also include the approval of a convenience store as defined under retail services and trade definition.
Wireless communications facilities	§§ 155.075, 155.095(A), not within an identified floodplain area, and if it is replacing existing facilities on an existing telecommunications tower but the proposed facility will occupy a larger space than the existing facility.
Telecommunications tower	§§ 155.070, 155.072, 155.075, 155.077, 155.095(A)
Adult oriented business	§§ 155.070, 155.072, 155.077, 155.095(A) and SDCL § 11-12

(C) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions). Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Building</i>	<i>Frontage</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Max. Height</i>
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		<i>Line</i>					
All uses	NA	NA	NA	see #1, #2	see #1, #2	see #1, #2	NA
Exceptions:							
#1	A 20-foot landscaped area shall be required between an abutting residential district boundary line and any structure, access drive, parking lot, or other accessory use when not separated by a street or alley.						
#2	See also adjustments to yard regulations (§ 155.082) for other exceptions.						

§ 155.037 GB GENERAL BUSINESS DISTRICT.

The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space.

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Retail services and trade	§§ 155.070, 155.072, 155.073, 155.077
Offices, commercial, construction and industrial	§§ 155.070, 155.072, 155.077
Offices, non-commercial, non-construction and non-industrial	§§ 155.070, 155.072, 155.077
Personal services	§§ 155.070, 155.072, 155.073, 155.077
Motel	§§ 155.070, 155.072, 155.073, 155.077
Print shop	§§ 155.070, 155.072, 155.073, 155.077
Hospital	§§ 155.070, 155.072, 155.073, 155.077
Clinic	§§ 155.070, 155.072, 155.073, 155.077
Public utility facilities	§§ 155.070, 155.072, 155.073, 155.077
Public service facility	One of the principle frontages shall abut upon an arterial or collector street as defined by the city's major street plan map.
	§§ 155.070, 155.073
Funeral home	§§ 155.070, 155.072, 155.073, 155.077
Private club	§§ 155.070, 155.072, 155.073, 155.077
Church	All parking lots being 8 feet from all residential properties.
	§§ 155.070, 155.072, 155.077
Restaurant	§§ 155.070, 155.072, 155.073, 155.077
Electrical substation	§§ 155.070, 155.077
Arcade	§§ 155.070, 155.072, 155.073, 155.077
Off-sale alcoholic beverage establishment	Located at least 500 feet from a school. (measured from the closest point of the outside walls of both structures)*
	§§ 155.070, 155.072, 155.073, 155.077
Day care center	Adequate and safe playground area with fence 4 feet high.
	A safe pickup and drop off area must be provided for the children.

	§§ 155.070, 155.072, 155.073, 155.077
Adult day services	§§ 155.070, 155.072, 155.073, 155.077, applicant must provide copy of the appropriate, and applicable, licenses from the State of South Dakota.
Motor vehicle repair	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired.
	§§ 155.070, 155.072, 155.073, 155.077
Off-premise sign	§ 155.070
Greenhouse	§§ 155.070, 155.072, 155.073, 155.077
Car wash	Five storage spaces for each bay beyond off-street parking requirements and the water from the car wash contained on the site.
	§§ 155.070, 155.072, 155.073, 155.077
Bus passenger terminal	§§ 155.070, 155.072, 155.073, 155.077
Motor vehicle sales, display, and rental	§§ 155.070, 155.072, 155.073, 155.077
	Subject to screening of all outdoor storage of parts from view.
Lumberyard	Subject to screening of all outdoor storage from view when abutting a residential district.
	§§ 155.070, 155.072, 155.073, 155.077
Bus and/or truck terminal	Subject to 300 feet from residential neighborhood to minimize effects of diesel fumes and noise. (measured from the closest point of the outside walls of both structures)
	§§ 155.070, 155.072, 155.073, 155.077
Farm store	Subject to only accessory storage of fertilizer or farm chemicals on the site.
	§§ 155.070, 155.072, 155.073, 155.077
Broadcast tower	Subject to being located at least 300 feet from a residential district. (measured from the closest point of the outside walls of both structures)
	§§ 155.070, 155.077
On-sale alcoholic beverage establishment	Located at least 500 feet from a school. (measured from the closest point of the outside walls of both structures)
	§§ 155.070, 155.072, 155.073, 155.077

Recreation Facility, Commercial	§§ 155.070, 155.072, 155.073, 155.077
Wireless communications facilities	§ 155.075, not within an identified floodplain area, and if replacing facility on existing telecommunications tower the proposed facility cannot occupy a larger space than the existing facility.
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(B) *Conditional use.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Motor vehicle service station	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Fuel dispensing station	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A), approval of conditional use permit for the fuel dispensing station shall also include the approval of a convenience store as defined under retail services and trade definition.
Assisted-living center and congregate care facility	§§ 155.070, 155.072, 155.077, 155.095(A)
	Applicant must provide copy of South Dakota Department of Health license.
	All multiple dwelling standards apply.
Nursing home	§§ 155.070, 155.072, 155.077, 155.095(A)
	Applicant must provide copy of South Dakota Department of Health license.
Crematorium	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Wireless communications facilities	§§ 155.075, 155.095(A), not within an identified floodplain area, and if it is replacing existing facilities on an existing telecommunications tower but the proposed facility will occupy a larger space than the existing facility.
Telecommunications tower	§§ 155.070, 155.072, 155.075, 155.077, 155.095(A)
Theater	§§ 155.070, 155.072, 155.073, 155.077
	If the theater is a drive-in theater it shall be located in such a manner that the screen will not deprive adjacent properties of solar access. Lighting of the drive-in theaters shall not reflect into adjacent residential areas.

Veterinarian, small animal	Located 150 feet from residential district area. (measured from the closest point of the outside walls of both structures)
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Campground	Lot must contain at least 2,000 square feet; access road on the campground site shall be 14 feet for 1-way and 20 feet for 2-way roads.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Commercial parking lot/facility	§§ 155.070, 155.072, 155.077, 155.095(A)
Storage facility	§§ 155.070, 155.072, 155.077, 155.095(A)
Adult oriented business	§§ 155.070, 155.072, 155.077, 155.095(A) and SDCL § 11-12
Wind energy conversion system	§§ 155.070, 155.072, 155.077, 155.081, 155.095(A)
Limited production	§§ 155.070, 155.072, 155.073, 155.074, 155.077, 155.095(A). Building size limited to a maximum area of 20,000 square feet. Only permitted for existing buildings as of July 3, 2014, on property formerly zoned I-0 Industrial according to the official zoning map on August 6, 2008.

(C) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions). Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Building Line</i>	<i>Frontage</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
All uses	NA	Up to 50 feet	50 feet	15 feet see #3	5 feet see #1, #3	5 feet see #2	45 feet
All uses	NA	51 to 100 feet	50 feet	20 feet see #3	5 feet see #1, #3	5 feet see #2	45 feet
All uses	NA	101 or more feet	50 feet	25 feet see #3	5 feet see #1, #3	5 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 20 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 lots						

§ 155.038 NC NEIGHBORHOOD COMMERCIAL DISTRICT.

This district is intended to provide for developing and redeveloping areas located at the edge of residential developments, adjacent to the major streets that serve the area. It is the intent of this district to provide for a well-integrated service area, providing convenience goods and personal services to primarily serve residents within 1 mile of the development. Due to the nature of commercial uses, site and architectural design shall be compatible with and sensitive to adjacent residential development, striving to preserve and protect residential property values.

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Offices, non-commercial, non-construction and non-industrial	§§ 155.070, 155.072, , 155.077
Drug store, pharmacy	§§ 155.070, 155.072, 155.073, 155.077
Personal services	§§ 155.070, 155.072, 155.073, 155.077
Clinic	§§ 155.070, 155.072, 155.073, 155.077
Mixed-use building	§§ 155.070, 155.072, 155.073, 155.077
Church	All parking lots being 8 feet from all residential properties.
	§§ 155.070, 155.072, 155.077
Libraries	All parking lots being 8 feet from all residential properties.
	§§ 155.070, 155.072, 155.077
Day care center	Adequate and safe playground area with fence 4 feet high.
	A safe pickup and drop off area must be provided for the children.
	§§ 155.070, 155.072, 155.073, 155.077
Adult day services	§§ 155.070, 155.072, 155.073, 155.077, applicant must provide copy of the appropriate, and applicable, licenses from the State of South Dakota.
Commercial parking lot/facility	§§ 155.070, 155.072, 155.077

Accessory building or use	§§ 155.071, 155.082(A) (see definition)
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(B) *Conditional Uses.*

<i>Conditional Uses</i>	Applicable Standards
Dwelling, single-family detached	§§ 155.070, 155.072, 155.073, 155.077, 155.095
Dwelling, single-family attached	§§ 155.070, 155.072, 155.073, 155.077, 155.095, up to 4 dwellings can be attached.
Dwelling, multiple-family	§§ 155.070, 155.072, 155.073, 155.077, 155.095, maximum of 16 bedrooms per lot. Number of bedrooms per dwelling unit cannot exceed 4.
Restaurant	§§ 155.070, 155.072, 155.073, 155.077, 155.095

(C) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions).

	<i>Lot Area</i>	Frontage	Building Line	Front Yard	Side Yard	Rear Yard	Maximum Height
Dwelling, single-family detached	6,000 square feet	50 feet	60 feet See #1	30 feet	8 feet	25 feet	35 feet
Dwelling, single-family attached (see note #5)	2,500 square feet	25 feet	25 feet	30 feet	0 feet or 8 feet on nonparty wall side	25 feet	35 feet
Dwelling, multiple-family	6,000 square feet/unit	50 feet	60 feet	30 feet	8 feet	25 feet	40 feet
All other uses	6,000 square feet see #4	50 feet	60 feet see #2, #3	30 feet see #2, #3	8 feet	25 feet	35 feet
Exceptions:							
#1 A single-family detached dwelling may be constructed on a lot-of-record.							
#2 No side yard or rear yard is required where a lot is adjacent to or abuts upon a commercial or industrial district.							

#3	Where a side yard or rear yard is required half of the required yard must be maintained as a landscaped area.
#4	There shall be a required front yard on each street side of lots.
#5	Every two units will be staggered.
#6	See also adjustments to yard regulations (§ 155.082) for other specific exceptions.

§ 155.039 GI GENERAL INDUSTRIAL DISTRICT

This district is intended to provide for a number of light manufacturing, wholesale, warehousing, and service uses in an attractive industrial park-like setting.

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Wholesale merchandising	§§ 155.070, 155.072, 155.073, 155.077
Light manufacturing	§§ 155.070, 155.072, 155.073, 155.077
Contractor's shop and storage yard	Subject to screening of all outdoor storage from view.
	§§ 155.070, 155.072, 155.073, 155.077
Offices, commercial, construction and industrial	§§ 155.070, 155.072, 155.073, 155.077
Public utility facility	§§ 155.070, 155.072, 155.073, 155.077
Frozen food locker	§§ 155.070, 155.072, 155.073, 155.077
Printing shop	§§ 155.070, 155.072, 155.073, 155.077
Motor vehicle service station	§§ 155.070, 155.072, 155.073, 155.077
Off-premise sign	§ 155.070
Electrical substation	§§ 155.070, 155.077
Bus and/or truck terminal	300 feet from residential neighborhood to minimize effects of diesel fumes and noise.
	§§ 155.070, 155.072, 155.073, 155.077
Warehouse	The materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials.
	§§ 155.070, 155.072, 155.073, 155.077
Lumberyard	Subject to screening of all outdoor storage from view when abutting a residential district.
	§§ 155.070, 155.072, 155.073, 155.077
Retail services and trade	§§ 155.070, 155.072, 155.073, 155.077
Bus and/or truck wash	All water from the truck or bus wash being contained on the site.
	§§ 155.070, 155.072, 155.073, 155.077
Truck repair, sales, and/or service	§§ 155.070, 155.072, 155.073, 155.077

	Subject to no unscreened outdoor storage of parts.
Recycling collection facility	Screening of all recyclable material from view.
	§§ 155.070, 155.072, 155.073, 155.077
Recycling processing facility	Screening of all recyclable material from view. §§ 155.070, 155.072, 155.073, 155.077
Farm store	Only accessory storage of fertilizer or farm chemicals on the site
	§§ 155.070, 155.072, 155.073, 155.077
Automobile storage yard	Screening of the storage yard with fence, berm, vegetation or placement on the lot.
	§§ 155.070, 155.072, 155.073, 155.077
Farm implement dealer	Screening of all outdoor storage of parts from view
	§§ 155.070, 155.072, 155.073, 155.077
Broadcast tower	Located at least 300 feet from a residential district.
	§§ 155.070, 155.072, 155.073, 155.077
Telecommunications tower	§§ 155.070, 155.075, 155.077
Storage facility	§§ 155.070, 155.075, 155.077
Wireless communications facilities	§§ 155.070, 155.075, 155.077, not within an identified floodplain area
Motor vehicle repair	An adequate number of parking spots to store the cars and screen parts and materials from view.
	§§ 155.070, 155.072, 155.073, 155.077

(B) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Heavy manufacturing	§§ 155.070, 155.072, 155.077, 155.095(A) Only use to be considered will be ready-mix concrete plant.
Wind energy conversion system	§§ 155.070, 155.072, 155.077, 155.081, 155.095(A)
Agribusiness	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)

(C) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions). Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Building Line</i>	<i>Frontage</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
All uses	NA	75 feet	50 feet	25 feet see #4	10 feet see #2, #4	25 feet see #3	45 feet see #1
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 lots.						

§ 155.040 HI HEAVY INDUSTRIAL DISTRICT.

This district is intended to provide for general industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, or commercial establishment. All uses in this district shall comply with any state or local regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable.

(A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Light manufacturing	§§ 155.070, 155.072, 155.073, 155.077
Wholesale merchandising	§§ 155.070, 155.072, 155.073, 155.077
Farm store	§§ 155.070, 155.072, 155.073, 155.077
Contractor’s shop and storage yard	Subject to screening of all outdoor storage from view
	§§ 155.070, 155.072, 155.073, 155.077
Bus and/or truck terminal	§§ 155.070, 155.072, 155.073, 155.077
Public utility facilities	§§ 155.070, 155.072, 155.073, 155.077
Frozen food locker	§§ 155.070, 155.072, 155.073, 155.077
Off-premise signs	§ 155.070
Electrical substation	§§ 155.070, 155.077
Retail services and trade	Being an accessory use when in conjunction with a primary use of wholesale or manufacturing.
	§§ 155.070, 155.072, 155.073, 155.077
Warehouse	Subject to the materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials.
	§§ 155.070, 155.072, 155.073, 155.077
Bus and/or truck wash	All water from the truck or bus wash being contained on the site.
	§§ 155.070, 155.072, 155.073, 155.077
Truck repair, sales, and/or service	No unscreened outdoor storage of parts.
	§§ 155.070, 155.072, 155.073, 155.077
Recycling collection facility	Subject to any outdoor storage of recyclable materials must be within an opaque screened area at least 6 feet in height.
	§§ 155.070, 155.072, 155.073, 155.077

Automobile storage yard	Screening of the storage yard with fence, berm, vegetation or placement on the lot.
	§§ 155.070, 155.072, 155.073, 155.077
Motor vehicle repair	An adequate number of parking spots to store the cars and screen parts and materials from view.
	§§ 155.070, 155.072, 155.073, 155.077
Recycling processing facility	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
	§§ 155.070, 155.072, 155.073, 155.077
Heavy manufacturing	§§ 155.070, 155.072, 155.073, 155.077 Only use to be considered will be ready mix concrete plant.

(B) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
General manufacturing	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Heavy manufacturing	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. Location shall not be located within ½-mile of any residential uses. Ready-mix concrete plant will not be considered as a conditional use.
	§§ 155.070, 155.073, 155.077, 155.095(A)
Distillation of products	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Refining	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½-mile of a residential area.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)

Tank farm	Compliance with the city's fire and health code, traffic to and from the facility will not travel on residential streets, and the odor will not impact residential neighborhoods.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Grain terminal	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Junkyard	Being sited off the main thoroughfares of the city, ½-mile from a residential district and be screened from view. The owner shall agree to control rodents as a condition of the permit.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Mining	Subject to the review and approval by the city's engineer.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Quarry	Subject to the site being located at least 1,000 feet from commercial or residential properties.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Solid waste transfer facility	Screening of the storage area with fence, berm, vegetation or placement on the lot.
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Municipally owned waste water treatment facility	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Wind energy conversion system	§§ 155.070, 155.072, 155.077, 155.081, 155.095(A)
Agribusiness	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)

(C) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions). Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Building Line</i>	<i>Frontage</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
All uses	NA	NA	NA	25 feet see #4	5 feet see #2, #4	5 feet see #3	55 feet see #1
Exceptions:							
#1	A side yard of 20 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 lots.						
#4	Wastewater treatment facilities are exempt from minimum yard or setback requirements.						
#5	See also adjustments to yard regulations (§ 155.082 for other specific exceptions).						

PD PLANNED DEVELOPMENT DISTRICT

§ 155.050 INTENT; COMPLIANCE WITH COMPREHENSIVE PLAN.

(A) It is the intent of this district to provide flexibility from conventional zoning regulations with increased public review for planned development district projects in order to:

- (1) Encourage well-planned, efficient urban development.
- (2) Allow a planned and coordinated mix of land uses which are compatible and are harmonious, but previously discouraged by conventional zoning procedures.
- (3) Encourage more creative, higher quality and more ecologically sensitive urban design with special consideration given to projects which incorporate desirable design features, including but not limited to underground parking, orientation or design to take advantage of solar energy, environmental preservation, historic preservation, handicapped accessible structures, unique use of open spaces or other desirable design features.
- (4) Improve communication and cooperation among the city, land developers, and interested residents in the urbanization of new lands and the renewal of existing deteriorated areas.

(B) The developments within the planned development district shall comply with the policies and design standards of the Vermillion Comprehensive Plan. The development shall be mutually compatible with adjacent projected developments.

(C) The planned development district that is being presented to the Planning and Zoning Commission, and to the City Council, shall be at least 3.5-acres in area. The size of the district may vary once the initial development plan is approved by the City Council.

§ 155.051 PROCEDURE.

(A) *Initial development plan.*

(1) When a petitioner wants to request a rezoning to the Planned Development District, it shall be submitted to the Zoning Administrator, showing the information specified in § 155.052, a minimum of 30 days prior to the Planning and Zoning Commission meeting at which consideration is desired. After the planned development request has been reviewed, the Planning and Zoning Commission shall make a recommendation to the City Council on the requested rezoning. The City Council shall then act to approve or deny the request.

(2) This request for rezoning is subject to the requirements for amendment of the zoning regulations specified in § 155.101. No building permit shall be issued within the development until the final development plan is approved and the plat is filed.

(B) *Final development plan.*

(1) Prior to construction on any lots in the planned development, the petitioner shall present a final development plan showing the information specified in § 155.053, to the

Planning and Zoning Commission, who shall have the sole authority to approve, deny, or amend the plan.

(2) 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.

(3) Signs shall be posted on the property for a continuous period of 7 days immediately prior to any public hearing held by the Planning and Zoning Commission or City Council to consider any final development plan. The signs shall be furnished by the Zoning Administrator and posted by the applicant in the numbers and locations prescribed by the Zoning Administrator.

(4) Before any action shall be taken by the Planning and Zoning Commission, the applicant shall first file with the Zoning Administrator a certificate verifying that the signs have been posted at the proper location before the time specified by this section.

(C) *Amendments.*

(1) *Major amendments.* Major amendments to the initial and/or final development plan shall be required to be approved with a public hearing in the same manner as provided for in § 155.054.

(2) *Minor amendments.*

(a) Minor amendments to the initial and/or final development plan shall be required to be approved by the Planning and Zoning Commission. Notice of the hearing shall be given by the posting of not less than 2 signs provided by the Zoning Administrator. Before any action shall be taken by the Planning and Zoning Commission, the applicant shall first file with the Zoning Administrator a certificate verifying that the signs have been posted at the proper location and for the time specified.

(b) 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 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 on file with the County Register of Deeds.

(3) *Minimal amendments.* Minimal amendments to the final development plan shall be submitted to the Zoning Administrator on a reproducible development plan showing the requested changes. The Zoning Administrator may then approve the change in writing if he/she deems it appropriate.

§ 155.052 INITIAL DEVELOPMENT PLAN.

Upon application for rezoning to the Planned Development District, the petitioner shall present an initial development plan to the Planning and Zoning Commission for review, and to the City Council, for their approval showing the following information:

- (A) Project name and legal description.
- (B) A preliminary subdivision plan in compliance with § 154.04 of the Subdivision Regulations.
- (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 the 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 the heights undesirable.
 - (5) Proposed design features illustrating compatibility to the surrounding environment and neighborhood.
 - (6) Anticipated subarea development sequence.
- (D) In addition, the developer shall provide an 8½ x 11 scaled rendering on mylar of the approved initial development plan showing each of the subareas.

§ 155.053 FINAL DEVELOPMENT PLAN.

- (A) Prior to construction on any lots in the Planned Development Zoning District, the petitioner shall present a final development plan to the Planning and Zoning Commission for their approval. When a subarea is proposed by the developer for only single-family detached homes or 2-family attached units, a final development plan will not be required.
- (B) Final development plan approval shall expire 1 year from the date upon which it becomes effective if no work has commenced. Upon written request to the Zoning Administrator and prior to the final development plan approval expiration date, a time extension for the final development plan approval may be granted.
- (C) The final development plan shall show the following information:

- (1) The subdivision name, the legal description and the individual project name (if any).
- (2) Boundaries of the subarea or subareas submitted for approval superimposed on the map of the initial development plan.
- (3) A subdivision plat of the subarea or subareas submitted for approval in compliance with Article V of the Subdivision Ordinance.
- (4) A scale drawing showing the following information will be required:
 - (a) Size and location of proposed structures including height and number of units.
 - (b) Calculated floor area for each structure and a generic listing of the uses within the structure.
 - (c) Off-street parking lot arrangement designating all parking spaces, off-street loading spaces and any outdoor trash container.
 - (d) Any sidewalks, bikeways or other paths.
 - (e) Any outdoor lighting, type and location, except for standard street lights provided by the city.
 - (f) 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.
 - (g) All existing and proposed utilities, drainage ways, water courses and location of above ground existing utilities on adjacent property.
 - (h) Proposed final ground contours.
 - (i) Curb cuts and all private drives.
 - (j) Adjacent, existing and proposed uses.
 - (k) First floor elevation for any structure located in a flood hazard area.
 - (l) Accurate building elevation of all proposed structures.
 - (m) Documentation of the ownership and maintenance responsibility of any common open spaces, structures or facilities, including private streets.
 - (n) Any subareas proposed for multiple residential development will be required to provide an open area for recreation. The open spaces shall not be included in any required yard, but shall be located in the same subarea it is intended to serve.

(o) Proposed parking and loading spaces which shall be in conformance with §§ 155.072 and 155.073, except where unique physical, environmental or design characteristics make the requirements undesirable.

(p) Unless otherwise specified on the final development plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each subarea as a part of the final development plan. For example: townhouses on block X shall be developed in conformance with the requirements of the R-2 Residential District.

§ 155.054 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, change in the area covered by the planned development district, increase in density above that provided for in the approved development district, or any deviation contrary to the approved plan should follow a rezoning process (§ 155.101).

(B) *Minor amendments.* The following changes in an initial and/or final development plan are considered minor amendments:

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

(2) A change in the street pattern.

(3) Any increase in density of a subarea that does not exceed the allowable maximum set in the approved planned development district:

(a) Less than 25% for a subarea with less than 8 residential dwelling units.

(b) Less than 15% for a subarea with between 9 and 20 residential dwelling units.

(c) Less than 8% for a subarea with 21 residential dwelling units or more.

(4) Any increase in the number of parking spaces. At no point shall the number of parking spaces be less than the required amount.

(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.

§ 155.055 COUNTRY SIDE PLANNED UNIT DEVELOPMENT.

(A) *Area A.* The purpose of this district is to provide for low-density manufactured homes and residential areas within planned unit developments. All city ordinances apply to the planned unit development except for those modified below.

(1) *Permitted uses.*

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Dwelling, single-family detached	§§ 155.070, 155.072, 155.076, 155.077
Accessory building or use	§§ 155.070, 155.095(A) (see definition)

(2) *Conditional uses.*

<i>Conditional Use</i>	<i>Applicable Standards</i>
<i>Manufactured home park, licensed</i>	§§ 155.070, 155.077, 155.079, 155.095(J)

(3) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line at the closest point. Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Lot Width</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Dwelling, single-family detached	6,000 square feet	50 feet	25 feet (30 feet on Burbank Rd.)	8 feet	25 feet	35 feet
Accessory building or use	NA	NA	Not permitted	6 feet	6 feet	12 feet

(4) *Property re-division.* All future property re-division shall require a re-platting of the affected parcels.

(B) *Area B.* The purpose of this district is to provide for low impact business, medium-density manufactured homes and residential areas within planned unit developments. All city ordinances apply to the planned unit development except for those modified below.

(1) *Permitted uses.*

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Dwelling, single-family detached	§§ 155.070, 155.072, 155.076, 155.077
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077
Dwelling, multiple-family	§§ 155.070, 155.072, 155.076, 155.077, maximum of two dwelling units per lot.

Dwelling, multiple-family	§§ 155.070, 155.072, 155.076, 155.077
Retail services and trade	§§ 155.070, 155.072, 155.076, 155.077
Drug store	§§ 155.070, 155.072, 155.076, 155.077
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(2) *Conditional uses.*

Conditional Use	Applicable Standards
Manufactured home park, licensed	§§ 155.070, 155.077, 155.079, 155.095(A)

(3) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line at the closest point.

	Lot Area	Frontage	Building Line	Front Yard	Side Yard	Rear Yard	Maximum Height
Retail services and trade	10,000 square feet	50 feet	65 feet	25 feet	8 feet	25 feet	35 feet
Drug store	10,000 square feet	50 feet	65 feet	25 feet	8 feet	25 feet	35 feet
Dwelling, single-family detached	6,000 square feet	50 feet	65 feet	25 feet	8 feet	25 feet	35 feet
Dwelling, single-family attached	2,500 square feet	25 feet	25 feet	25 feet	8 feet (0 on party wall)	25 feet	35 feet
Dwelling, multiple-family (maximum of two dwelling units per lot)	7,500 square feet	50 feet	75 feet	25 feet	8 feet	25 feet	35 feet
Dwelling, multiple-family (maximum of 32 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	7,500 square feet	50 feet	60 feet	30 feet	10 feet	25 feet	35 feet
Dwelling, multiple-family (between 33 and 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	17,000 square feet	50 feet	85 feet	30 feet	10 feet	25 feet	35 feet
Dwelling, multiple-family (over 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	25,000 square feet	50 feet	85 feet	30 feet	10 feet	25 feet	35 feet

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Accessory building or use				Not permitted	4 feet	4 feet	12 feet

(4) *Property re-division.* All future property re-division shall require a re-platting of the affected parcels.

§ 155.057 COTTAGE PLACE PLANNED DEVELOPMENT DISTRICT.

(A) *Purpose.* The regulations set forth in this section or set forth elsewhere in the Vermillion Zoning Ordinance when referred to in this section are the district regulations in the Cottage Place Planned Development District. The purpose of this district is to provide for mixed use commercial and residential areas within the Planned Development District. All city ordinances apply to the Planned Development District.

(B) *Area A* (mixed use commercial and residential areas). All city ordinances apply to the planned development district identified as Area A except for those modified below.

(1) *Permitted uses (Area A).*

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Retail trade or service	§§ 155.070, 155.072, 155.073, 155.077
Offices, non-commercial, non-construction and non-industrial	§§ 155.070, 155.072, 155.073, 155.077
Personal service	§§ 155.070, 155.072, 155.073, 155.077
Mixed-use building	§§ 155.070, 155.072, 155.073, 155.077
Accessory building or use	§§ 155.070, 155.095(A)
Church	All parking lots being 8 feet from all residential properties. §§ 155.070, 155.072, 155.077
Drug store	§§ 155.070, 155.072, 155.073, 155.077
Clinic	§§ 155.070, 155.072, 155.073, 155.077
Day care center	Adequate and safe playground area with fence 4 feet high. A safe pickup and drop off area must be provided for the children. §§ 155.070, 155.072, 155.073, 155.077
Neighborhood utility facility	§ 155.070
Veterinarian, small animal	§§ 155.070, 155.072, 155.073, 155.077, 155.095(A)
Off premise parking	§ 155.095(A)

(2) *Conditional uses (Area A).*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Hotel	§§ 155.070, 155.072, 155.073, 155.077
Hospital	§§ 155.070, 155.072, 155.073, 155.077

Public utility facility	§§ 155.070, 155.072, 155.073, 155.077
Funeral home	§§ 155.070, 155.072, 155.073, 155.077
Private club	§§ 155.070, 155.072, 155.073, 155.077
Restaurant	§§ 155.070, 155.072, 155.073, 155.077
Arcade	§§ 155.070, 155.072, 155.073, 155.077
On -sale alcoholic beverage establishment	Located at least 500 feet from a school. Measured from the closest point of the outside walls of both structures.* §§ 155.070, 155.072, 155.073, 155.077
Off-sale alcoholic beverage establishment	Located at least 500 feet from a school. Measured from the closest point of the outside walls of both structures. §§ 155.070, 155.072, 155.073, 155.077
Motor vehicle repair	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired. §§ 155.070, 155.072, 155.073, 155.077
Greenhouse	§§ 155.070, 155.072, 155.073, 155.077
Car wash	Five storage spaces for each bay beyond off-street parking requirements and the water from the car wash contained on the site. §§ 155.070, 155.072, 155.073, 155.077
Motor vehicle sales, display, and rental	§§ 155.070, 155.072, 155.073, 155.077 Subject to screening of all outdoor storage of parts from view.
Lumberyard	Subject to screening of all outdoor storage from view when abutting a residential district. §§ 155.070, 155.072, 155.073, 155.077 §§ 155.070, 155.072, 155.073, 155.077
Public service facility	§ 155.070
Theatre	§§ 155.070, 155.072, 155.077
Wholesale trade	§§ 155.070, 155.072, 155.073, 155.077

(C) *Area B* (commercial, multi-dwelling, mixed use). Area B is identified to allow multi-dwelling equivalent to R-3 off of Cherry Street frontage. Area B will utilize the same permitted uses as Area A with the addition of the following. Area B will utilize the same conditional uses as Area A without any additions.

(1) *Permitted uses (Area B).*

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Area A permitted uses	See Area A permitted uses
Dwelling, multiple-family	§§ 155.070, 155.072, 155.073, 155.077
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(2) *Conditional uses (Area B).*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Area A conditional uses	See Area A conditional uses

(D) *Area C (storage).* All city ordinances apply to the planned development district identified as Area C except for those modified below.

(1) *Permitted uses (Area C).*

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Storage facility	§§ 155.070, 155.072, 155.077, 155.095(A)
Accessory building or use	§§ 155.070, 155.095(A) (see definition)
Contractor's shop and storage yard	Subject to screening of all outdoor storage from view. No repairs or sales §§ 155.070, 155.072, 155.073, 155.077
Warehouse	The materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials. §§ 155.070, 155.072, 155.073, 155.077
Neighborhood utility facility	§ 155.070
Off premise parking	§ 155.095(A), for adjacent tracts only and parking shall abut the adjacent tract.

(2) *Conditional uses (Area C).*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Motor vehicle sales, display and service	§§ 155.070, 155.072, 155.073, 155.077 Subject to screening of all outdoor storage of parts from view.

(E) *Area D (high density residential).* This area shall provide for certain high density residential areas now developed primarily with single-family. All city ordinances apply to the planned development district identified as Area D except for those modified below.

(1) *Permitted uses (Area D).*

<i>Permitted Use</i>	<i>Applicable Standards</i>
Dwelling, single-family detached	§§ 155.070, 155.072, 155.076, 155.077
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077, up to 2 dwellings can be attached
Dwelling, multiple-family	§§ 155.070, 155.072, 155.076, 155.077
Neighborhood utility facility	§ 155.070
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(2) *Conditional uses (Area D).*

<i>Conditional Use</i>	<i>Applicable Standards</i>
Public service facility	§ 155.070

(F) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions). Values listed are minimums, unless otherwise stated

	Tract Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Dwelling, single-family detached	7,000 square feet	60 feet	30 feet	8 feet	25 feet	45 feet
Dwelling, single-family attached	5,000 square feet	20 feet	30 feet	0 or 10 feet on nonparty wall side	25 feet	45 feet
Dwelling, multiple-family units (maximum of 32 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	7,500 square feet	60 feet	30 feet	10 feet	10 feet	45 feet
Dwelling, multiple-family units (between 33 and 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	20,000 square feet	70 feet	30 feet	10 feet	10 feet	45 feet
Dwelling, multiple-family units (over 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	30,000 square feet	85 feet	30 feet	10 feet	10 feet	45 feet
Accessory building or use	NA	NA	Not permitted	5 feet	5 feet	12 feet
Off premise parking lot	§ 155.072	NA	10 feet	10 feet	10 feet	NA
All other uses	7,000 square feet	50 feet	15 feet	5 feet	10 feet	45 feet

Exceptions:

#1	Where a side yard or rear yard is required half of the required yard must be maintained as a landscaped area.
#2	There shall be a required front yard on each thru street side of lots.
#3	See adjustments to yard regulations (§ 155.082) for other specific exceptions.
#4	The side yard will be required to be increased by 10 feet when the building is 3 stories in height or more.
#5	There shall not be a required front yard on Cottage Place for a double frontage lot. There shall be a required front yard on Cottage Street of a corner lot.
#6	A side or rear yard of 15 feet shall be required when a use other than residential is adjacent to or abuts a residential district.

(G) *Property re-division.* All future property re-division shall require a re-platting of the affected parcels. Planned Development District may be required to be amended depending on property re-division.

(1) *Ingress/Egress Easements* - Future transfer of ownership which creates a landlocked parcel shall require a dedicated ingress/egress easement for the issuance of a building permit.

(H) *Parking regulations.* Parking shall comply with § 155.072. Required parking shall be dedicated to the occupants and located as close to the building served as possible.

(I) *Visibility at intersections and driveways.* Safety zones shall comply with § 155.070.

(J) *Accessory use and structures* shall conform to the following standards:

(1) Roofing and siding materials shall be of a type customarily used on site-constructed residence.

(2) Any accessory building that covers more than 120 square feet shall be secured to the ground to prevent the structure from being moved or damaged by high winds.

(3) Accessory buildings may not be used for dwelling purposes.

(4) Accessory buildings in excess of 750 square feet in area should be approved only if there is a legitimate purpose for accessory buildings.

(K) *Off-street loading requirements* shall comply with § 155.073.

(L) *Site-built dwelling standards* shall comply with § 155.076.

(M) *Landscaping standards.*

(1) Within any zoning district, at least 75% of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways and parking (§ 155.072).

(2) One tree per 50 feet of tract width is required. No more than 25% of the required trees may be deciduous ornamental, evergreen, or coniferous trees.

(3) Each existing tree of at least 1 3/4-inch caliper in size shall count toward the tree requirement.

(4) Where feasible, landscape areas must be capable of providing a substantially full expanse of foliage within 3 years after planting. All deciduous trees shall be 1 3/4-inch caliper and all deciduous ornamental shall be 1 1/4-inch caliper. Berms or other landscaping techniques may be used for all or part of the 6-foot screening if they have a maximum grade of 3 feet horizontal to 1-foot vertical and sodded or planted with other acceptable living ground cover.

(5) A fence, wall, or shrubbery 6 feet in height and of a character necessary for adequate screening shall be installed or planted when a commercial use is located adjacent to residentially used property or across the right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the 6-foot screening if they have a maximum grade of 3 feet horizontal to 1-foot vertical and sodded or planted with other acceptable living ground cover.

(6) If proper screening is provided, parking lot setbacks may be reduced at City Engineer's discretion.

(N) *Adjustments to yard regulations* shall comply with § 155.082.

(O) *Non-conforming uses and structures* shall comply with § 155.083.

(P) *Lighting*.

(1) When property is adjacent to or within 150 feet of residentially used or zoned property, the following lighting standards apply:

(a) The maximum light level shall be no greater than 3 foot candles field measured at the property line (ground level).

(b) The maximum height of light luminaries shall be 25 feet above the ground.

(c) Canopy luminaries and other on-site lighting with luminaries greater than 2,000 lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture.

(d) The maximum number of canopy luminaries shall be determined by the following industry standard: Canopy length (in feet) x canopy width (in feet) x 3 = Maximum No. of Luminaries lamp wattage

(2) All other light luminaries shall have a maximum height of 38 feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies.

(3) The following structures or uses are exempt from these lighting standards: parks, pedestrian walkways, and illuminated flags or statues.

(4) Lighting for parking lots shall be constructed so as to prevent light pollution to surrounding properties.

(Q) *Sign regulations.* Signs shall be regulated by Chapter 152. Regulations shall be those used in the R-3 District.

(R) *Fence regulations.* Fences shall comply with § 155.074(A), (B) and (C), except for fences used to enclose recreational areas that may comply with § 155.074(G).

§ 155.058 BLISS POINTE PLANNED DEVELOPMENT DISTRICT.

(A) *Area A (low-density, single-family detached residential uses).* All city ordinances apply to the Planned Development District identified as Area A except for those modified below.

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Dwelling, single-family detached	§§ 155.070, 155.072, 155.076, 155.077
Day care, group	A safe pickup and drop off area must be provided for the children. All applicable dwelling standards apply.
Neighborhood utility facility	§ 155.070
Public park areas	§ 155.070
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(B) *Area B (low to medium-density, single-family residential uses).* All city ordinances apply to the Planned Development District identified as Area A except for those modified below.

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Area A permitted uses	See Area A permitted uses

<i>Conditional Uses</i>	<i>Applicable Standards</i>
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077
Dwelling, multiple-family (maximum of two dwelling units per lot)	§§ 155.070, 155.072, 155.076, 155.077

(C) *Area C (medium to high-density residential uses).* All city ordinances apply to the Planned Development District identified as Area C except for those modified below.

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Dwelling, single-family attached	§§ 155.070, 155.072, 155.076, 155.077
Dwelling, multiple-family (maximum of two dwelling units per lot)	§§ 155.070, 155.072, 155.076, 155.077
Day care, center	Adequate and safe playground area with fence 4 feet high.
Neighborhood utility facility	§ 155.070
Public park areas	§ 155.070
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

<i>Conditional Uses</i>	<i>Applicable Standards</i>
Dwelling, multiple-family	§§ 155.070, 155.072, 155.076, 155.077, three or more dwelling units per lot

(D) *Area D (light commercial uses).* All city ordinances apply to the Planned Development District identified as Area D except for those modified below.

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Retail services and trade	§§ 155.070, 155.072, 155.076, 155.077
Offices, non-commercial, non-construction and non-industrial	§§ 155.070, 155.072, 155.076, 155.077
Personal Service	§§ 155.070, 155.072, 155.076, 155.077
Hospital	§§ 155.070, 155.072, 155.076, 155.077
	§§ 155.070, 155.072, 155.076, 155.077
Day care, center	§§ 155.070, 155.072, 155.076, 155.077
Accessory building or use	§§ 155.070, 155.072, 155.076, 155.077

(E) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions). Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Dwelling, single-family detached	6,500 square feet	50 feet	65 feet	25 feet See (3)	8 feet See (2)	25 feet See (8)	35 feet

Dwelling, single-family attached, See (4)	2,500 square feet	25 feet	25 feet	25 feet See (3)	0 or 8 feet on non-party wall side	25 feet	35 feet
Dwelling, multiple-family (maximum of two dwelling units per lot)	7,500 square feet	50	75	25 feet	8 feet	25 feet	35 feet
Dwelling, multiple-family units (maximum of 32 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	7,500 square feet	50 feet	60 feet	30 feet See (5)	10 feet See (1)	10 feet	35 feet
Dwelling, multiple-family units (between 33 and 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	20,000 square feet	50 feet	70 feet	30 feet See (5)	10 feet See (1)	10 feet	45 feet
Dwelling, multiple-family units (over 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	30,000 square feet	50 feet	85 feet	30 feet See (5)	10 feet See (1)	10 feet	45 feet
Area D uses	NA	101 or more feet	50 feet	25 feet See (2)	5 feet See (2), (6)	5 feet See (7)	45 feet
All other uses	7,500 square feet	50 feet	75 feet	30 feet	10 feet	25 feet	45 feet

Exceptions:

- (1) The side yard will be required to be increased by 10 feet when the building is 3 stories in height or more.
- (2) There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- (3) See also adjustments to yard regulations (§ 155.082) for other specific exceptions.
- (4) Every two units shall be staggered.
- (5) More than one building per lot may be constructed.
- (6) A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.
- (7) A rear yard of 20 feet shall be required where a lot is adjacent or abuts a residential district.
- (8) The rear yard may be reduced to 20 feet for lots 9,000 square feet or less.

(F) *Property re-division.* All future property re-division shall require a re-platting of the affected parcels. The Planned Development District may require an amendment on property re-division.

§ 155.059 COMMUNITY ORIENTED HEALTHCARE PLANNED DEVELOPMENT DISTRICT.

(A) *Purpose.* The regulations set forth in this section or set forth elsewhere in the Vermillion Zoning Ordinance when referred to in this section are the district regulations in the Community Oriented Healthcare Planned Development District. The purpose of this district is

to provide for well-planned mixed use community oriented healthcare areas within the Planned Development District. All city ordinances apply to the Planned Development District except for those modified below.

(B) *Permitted uses.*

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Hospital	§§ 155.070, 155.072, 155.076, 155.077
Clinic	§§ 155.070, 155.072, 155.076, 155.077
Office	§§ 155.070, 155.072, 155.076, 155.077
Assisted-living center and congregate care facility	§§ 155.070, 155.072, 155.077 Applicant must provide copy of South Dakota Department of Health license. All multiple dwelling standards apply.
Nursing Home	§§ 155.070, 155.072, 155.077 Applicant must provide a copy of South Dakota Department of Health license.
Accessory building or use	§§ 155.071, 155.082(A) (see definition)
Group Home	Structure must be a single housekeeping unit. Applicant must provide a copy of state agency license. §§ 155.070, 155.072, 155.076, 155.077
Drug store	§§ 155.070, 155.072, 155.076, 155.077
Day care center	Adequate and safe playground area with fence 4 feet high. A safe pickup and drop off area must be provided for the children. §§ 155.070, 155.072, 155.076, 155.077
Off-premise parking lots	§§ 155.070, 155.072, 155.077

(C) *Conditional uses.*

Dwelling	Dwelling shall be limited to the basement of any permitted primary uses within the district. §§ 155.070, 155.072, 155.073, 155.077, 155.095
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(D) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions).

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Hospital	6,000 square feet	50 feet	50 feet	25 feet	8 feet	25 feet	60 feet
Clinic	6,000 square feet	50 feet	50 feet	25 feet	8 feet	25 feet	60 feet
All other uses	6,000 square feet	50 feet	50 feet	25 feet	8 feet	25 feet	35 feet
Off-premise parking	§ 155.072	NA	NA	10 feet	2 feet	10 feet	NA
Exceptions:							
(1) Where a side yard or rear yard is required half of the required yard must be maintained as a landscaped area.							
(2) There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of lots.							
(3) Parking lot setbacks will only be required when abutting or across from a residential zone.							
(4) See adjustments to yard regulations (§ 155.082) for other specific exceptions.							

(E) *Property re-division.* All future property re-division shall require a re-platting of the affected parcels. Planned Development District may be required to be amended depending on property re-division.

(F) *Visibility at intersections and driveways.* Safety zones shall comply with § 155.070.

(G) Off-street loading requirements shall comply with § 155.073.

(H) *Landscaping standards.*

(1) Within any zoning district, at least 90% of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways and parking (see § 155.072).

(2) *One tree per 50 feet of tract width is required.* No more than 25% of the required trees may be deciduous ornamental, evergreen, or coniferous trees.

(3) Each existing tree of at least 1-3/4-inch caliper in size shall count toward the tree requirement.

(4) Where feasible, landscape areas must be capable of providing a substantially full expanse of foliage within 3 years after planting. All deciduous trees shall be 1-3/4-inch caliper and all deciduous ornamental trees shall be 1-1/4-inch caliper.

- (I) Adjustments to yard regulations shall comply with § 155.082.
- (J) Non-conforming uses and structures shall comply with § 155.083.
- (K) *Lighting.*

(1) When property is adjacent to or within 150 feet of residentially used or zoned property, the following lighting standards apply:

(a) The maximum light level shall be no greater than 3 foot candles field measured at the property line (ground level).

(b) The maximum height of light luminaries shall be 20 feet above the ground.

(c) Canopy luminaries and other on-site lighting with luminaries greater than 2,000 lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture.

(d) The maximum number of canopy luminaries shall be determined by the following industry standard: canopy length (in feet) x canopy width (in feet) x 3= maximum no. of luminaries' lamp wattage.

(2) All other light luminaries shall have a maximum height of 38 feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies.

(3) The following structures or uses are exempt from these lighting standards: parks, pedestrian walkways, and illuminated flags or statues.

(4) Lighting for parking lots shall be constructed so as to prevent light pollution to surrounding properties.

(L) *Sign regulations.* Signs shall be regulated by Chapter 152. Regulations shall be those used in the NC District.

(M) *Fence regulations.* Fences shall comply with § 155.074(A), (B) and (C), except for fences used to enclose recreational areas that may comply with § 155.074(G).

(N) *Accessory uses.* Accessory uses and structures may be placed within this district without the need of a primary structure being located within the same lot. The use of the accessory building shall still be related to the allowed use within the Planned Development District.

§ 155.060 SPADY PLANNED DEVELOPMENT DISTRICT.

The purpose of this regulation is to provide for certain high density residential areas within the Planned Development District.

- (A) *Permitted uses.*

<i>Permitted Use</i>	<i>Applicable Standards</i>
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Dwelling, multiple-family	§§ 155.070, 155.072, 155.076, 155.077
Accessory building or use	§§ 155.071, 155.082(A) (see definition)

(B) *Lots 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. Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Frontage</i>	<i>Building Line</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Dwelling, multiple-family units (maximum of 32 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	7,500 square feet	50 feet (#5)	60 feet	30 feet	10 feet	15 feet	45 feet
Dwelling, multiple-family units (between 33 and 48 bedrooms per lot, number of bedrooms per dwelling unit cannot exceed 4)	20,000 square feet	50 feet (#5)	70 feet	30 feet	10 feet	15 feet	45 feet
Dwelling, multiple-family units (over 48 bedrooms per lot, number of bedrooms per dwelling unit)	30,000 square feet	50 feet (#5)	85 feet	30 feet	10 feet	15 feet	45 feet

cannot exceed 4)							
Exceptions:							
(1) The side yard will be required to be increased to 15 feet when the building is 3 stories in height or more.							
(2) See also adjustments to yard regulations (§ 155.082) for other specific exceptions.							
(3) More than 1 main building per lot may be constructed.							
(4) In the event that a townhouse style building is constructed every 2 units will be staggered.							
(5) The frontage for Lot 2 shall be North Norbeck Street. The required width may be split evenly between 2 ingress/egress easements.							

§ 155.061 DAKOTA COMMONS PLANNED DEVELOPMENT DISTRICT.

(A) The purpose of this district is to provide for mixed use (commercial and high density residential) development in single use and/or mixed use structures. District commercial establishments and high density multi-family residential apartments are intended to be integrated to provide convenient apartment living, along with shopping and dining, located adjacent to the major streets that serve the area, while also serving the general shopping and dining needs of the trade area. Site and architectural design shall be compatible with and sensitive to adjacent residential development, striving to preserve and protect residential property values.

(B) All city ordinances apply to the Dakota Commons Planned Development District except for those modified below.

(1) *Permitted uses.* A building or lot shall be permitted to be used for the following purposes (multiple uses may be allowed in 1 building or lot):

<i>Permitted Uses</i>	<i>Applicable Standards</i>
Retail trade and service	§§ 155.070, 155.072, 155.073, 155.077
Offices, non-commercial, non-construction and non-industrial	§§ 155.070, 155.072, 155.073, 155.077
Personal service	§§ 155.070, 155.072, 155.073, 155.077
Restaurants	§§ 155.070, 155.072, 155.073, 155.077
Drug store	§§ 155.070, 155.072, 155.073, 155.077
Arcade	§§ 155.070, 155.072, 155.073, 155.077
Day care center	Adequate and safe playground area with fence 4 feet high. A safe pickup and drop off area must be provided for the children. §§ 155.070, 155.072, 155.073, 155.077
Commercial recreation facility	§§ 155.070, 155.072, 155.073, 155.077

Dwelling, multiple-family	§§ 155.070, 155.072, 155.073, 155.077
Auditoriums, theaters, and places of public assembly	§§ 155.070, 155.072, 155.073, 155.077
Accessory building or use	§ 155.070
Off-premise parking lot	§§ 155.070, 155.077

(2) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions). Values listed are minimums, unless otherwise stated.

	<i>Lot Area</i>	<i>Lot Width</i>	<i>Front yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height</i>
Residential structures or portions of structures used for residential	30,000 square feet	50 feet	25 feet	10 feet	10 feet	60 feet
Non-residential structures or portions of structures used for non-residential	7,000 square feet	50 feet	15 feet	5 feet	10 feet	60 feet
Accessory building or use	NA	NA	Not permitted	5 feet	5 feet	12 feet
Off-premise parking lot	§ 155.072	NA	10 feet	0 feet	0 feet	NA

Exceptions:

- (1) The side yard will be required to be increased to 15 feet when the building is 3 stories in height or more.
- (2) No side yard or rear yard is required where a lot is adjacent to or abuts upon a commercial, industrial, or mixed use district.
- (3) One required front yard may be reduced to 20 feet on corner lots.
- (4) One required parking lot front yard may be reduced to 8 feet on corner or double frontage lots.
- (5) Two required front yards may be reduced to 20 feet on lots with more than 2 frontages.
- (6) More than 1 main building per lot may be constructed.

(3) *Property re-division.* All future property re-division shall require a re-platting of the affected parcels. The Planned Development District may be required to be amended depending on property re-division.

(4) *Ingress/egress easements.* Future transfer of ownership which creates a landlocked parcel shall require a dedicated ingress/egress easement for the issuance of a building permit.

(5) *Parking regulations.* Parking shall comply with § 155.072, except as noted below.

(a) Shared parking is encouraged. The total parking required may be provided anywhere within the district, regardless of property lines.

(b) The number of required automobile parking spaces may be reduced up to 7% according to the following procedure:

1. Two bicycle parking spaces may be provided in lieu of each required automobile parking space; and

2. Each bicycle parking space shall include a metal anchor which will secure the frame and both wheels in conjunction with a user-supplied lock.

3. Bicycle parking spaces shall be as close to the main building entrance as the most convenient non-handicapped auto space, without interfering with pedestrian movement.

4. Bicycle spaces shall be located and designed to prevent damage to bicycles from motor vehicles.

(c) Required parking shall be dedicated to the occupants and located as close to the building served as possible.

(d) A fence, wall, berm, or shrubbery 4 feet in height and of a character necessary for adequate screening of a parking lot from adjacent residentially used property shall be provided.

(6) *Visibility at intersections and driveways.* Safety zones shall comply with § 155.070.

(7) *Accessory use and structures.* Shall comply with § 155.071.

(8) *Off-street loading requirements.* Shall comply with § 155.073.

(9) *Fences.* Fences shall comply with § 155.074 (A), (B) and (C), except for fences used to enclose recreational areas that may comply with § 155.074 (G).

(10) *Site-built dwelling standards.* Shall comply with § 155.076.

(11) *Landscaping standards.* Shall comply with § 155.077. Lighting for parking lots shall be constructed so as to prevent light pollution to surrounding properties.

(12) *Non-conforming uses and structures.* Shall comply with § 155.083.

(13) *Sign regulations.* Signs shall be regulated by Chapter 152 of this code. Regulations shall be those used in the NC and R-3 Districts.

ADDITIONAL USE REGULATIONS

§ 155.070 VISIBILITY AT INTERSECTIONS AND DRIVEWAYS.

(A) *Intersection safety zones.* No fence, wall, shrub or other obstruction to vision exceeding 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 2 lines (see Figure 1).

(B) *Driveway safety zones.* No fence, wall, shrub, or other obstruction to vision exceeding 3 feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to 10 feet behind the curb line (see Figure 1).

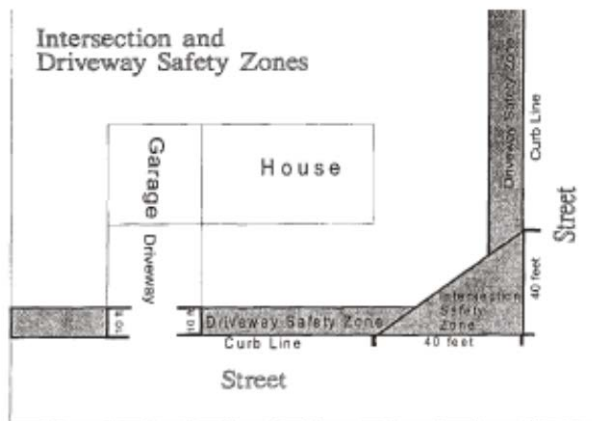


Figure 1

Penalty, see § 155.999

§ 155.071 ACCESSORY USE AND STRUCTURES.

Accessory uses and structures shall conform to the following standards:

(A) A private residential garage used only for the accessory storage of the primary structure. Roofing and siding materials shall be of a type customarily used on site-constructed residence.

(B) Any accessory building that covers more than 120 square feet shall be secured to the ground to prevent the structure from being moved or damaged by high winds.

(C) Accessory buildings may not be used for dwelling purposes.

(D) Accessory buildings in excess of 750 square feet in area should be approved only if there is a legitimate residential purpose for accessory buildings. Special care should be taken to ensure that the applicant is not using the structure for the operation of any business and that the applicant understands that any commercial or industrial use would not be permitted in the accessory building.

(E) Yard setbacks may be adjusted as according to § 155.082.

§ 155.072 OFF-STREET PARKING.

(A) *General conditions.*

(1) No parking spaces are permitted in the required front yard in any district, except as follows:

(a) Single-family detached dwellings, single-family attached dwellings and multiple-family dwellings (maximum of two dwelling units) are permitted to provide off-street parking on driveways constructed according to city standards.

(b) Multiple-family dwellings (more than two dwelling units) located in the R-3 zoning district may provide no more than 25% of the required area for parking in the required front yard.

(c) Commercial uses located in the NRC, CB, GB, NC, GI and HI districts may provide required parking in the required front yard.

(2) Parking spaces may be permitted in any required rear yard.

(3) All parking spaces shall be connected to a public street or alley.

(4) Except in conjunction with a legal nonconforming business, it is unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any commercial vehicle with a gross vehicle weight rating (GVWR) of over 13,000 pounds in a NRC, R-1, R-2, R-3 or R-4 Zoning District, unless the vehicle is parked in connection with the performance of a service. The transferring of refuse from a smaller satellite vehicle to a large packer garbage truck is prohibited.

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

(6) The parking requirements in this section shall not be applicable to property in the CB Central Business District.

(7) Off-street parking shall be located on the same zoning lot as the principal use served.

(B) *Required parking spaces.*

(1) 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 and Loading Requirements

<i>Uses and Structures</i>	<i>Minimum Parking Requirements</i>
Boarding houses, fraternities and	If a new parcel previously undeveloped, then 1 parking

<i>Uses and Structures</i>	<i>Minimum Parking Requirements</i>
sororities	space for each 200 square feet of floor area. If an existing parcel previously used as a boarding house, or fraternities and sororities, the applicant shall provide the City the current number of residents and the existing number of off-street parking provided. The existing number of off-street parking shall be subtracted from the current number of residents to determine the current on-street parking demand. The applicant shall also provide the City the proposed number of residents that will live in the new building. The current on-street parking demand shall be subtracted from the proposed number of residents that will live in the new building. This value will be the required off-street parking that will need to be provided for. In calculating the required parking spaces, these uses may be permitted to include off-street parking available on a different lot, or zoning lot, then the use served, subject to approval of the use through the Conditional Use Permit process. Parking spaces may not count towards more than one use.
Bowling alleys	4 spaces per lane
Church	1 space for each 4 seats in main seating area
Private club or lodge	1 parking space for each 300 square feet of floor area
High school (grades 9 th through 12 th)	4 spaces for each classroom or office room, plus 1 for each 150 square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium
Elementary or Middle school (grades up to, and including, 8 th grade)	2 spaces for each classroom or office room, plus 1 for each 150 square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium
Eating and drinking places	1 space for each 300 square feet of gross floor area
Hospitals	1 space for each bed
Nursing, convalescent and rest homes	1 space for each 3 beds
Auditoriums, theaters and places of public assembly	1 space for each 4 seats of design capacity
Hotels and motels	1 space for each 2 rental rooms
Funeral homes	1 space for each 4 seats in the chapel
Retail sales establishments	1 space for each 300 square feet of floor area
Medical and dental clinics	1 space for each 2 staff members and full-time employees, plus 1 space for each 600 square feet of gross floor area

<i>Uses and Structures</i>	<i>Minimum Parking Requirements</i>
Manufactured home parks	2 spaces for each
Industrial uses	1 space for each 2 employees on the maximum working shift
Service establishments	1 space for each 300 square feet of floor area
Wholesale and distribution establishments	1 space for each 2 employees on the maximum working shift

(2) For parking requirements for dwellings (excluding manufactured homes) see Table 2 below.

(a) Below are several options for a property owner to take when building off- street parking. The process starts with division 1. below. If the requirements cannot be met, then proceed to division 2. below, and so on. All other ordinances still apply to the construction. Options:

1. Off-street parking to be in the existing driveway (side-by-side or back-to-back); if not, then

2. Existing driveway may be widened to provide side-by-side parking along the front side of the property. The portion widened may not be in front of the residence; if not, then

3. Properties with alleyway access may construct the parking area along the rear of the property with access from the alleyway; if not, then

4. Off-street parking may be constructed in the rear yard; if not, then

5. Existing driveway may be widened to provide side-by-side parking along the front side of property. A portion widened may be in front of the residence. The maximum distance for the portion in front of the residence to be widened will be 4-feet and shall be hard surface.

(3) Alternate parking requirements (see Table 2 below) shall allow for 1 parking stall within the garage to count towards the off-street parking requirements. In order for the alternate parking requirements to be utilized, the following criteria must be met:

(a) Alternate parking requirements shall not be considered for any multiple- family dwelling units to be constructed after March 22, 2018;

(b) Each dwelling unit shall have the garage located within 10 feet of the unit (measured from the closest point of the dwelling unit to the closest point of the garage unit);

(c) Each garage stall shall be a minimum of 10 feet wide by 20 feet long; and

(d) The property owner shall ensure that the garage space is open for resident parking, or for tenant parking as a condition of their rental registry. The garage space cannot be used for any other purpose.

Table 2: Minimum Off-Street Parking and Loading Requirements for Residential Uses

<i>Uses and Structures</i>	<i>Minimum Parking Requirements</i>	<i>Alternate Parking Requirements</i>
Single-family detached	2 parking spaces per each dwelling unit	2 parking spaces per each dwelling unit
Dwelling, single-family attached	2 parking spaces per each dwelling unit	2 parking spaces per each dwelling unit
Multiple-family (maximum of two dwelling units)	2 parking spaces per each dwelling unit	2 parking spaces per each dwelling unit
Multiple-family (three or more dwelling units)	2 parking spaces per each dwelling unit or 1 parking space per each bedroom, whichever is greater	Use either 2 parking spaces per each dwelling unit or 1 per bedroom, whichever is greater. This value shall be multiplied by the following factors. The number of garage stalls shall be subtracted from the product. If garage is 1 stall then the factor will be 1.2 If garage is 2 stalls, or larger, then factor will be 1.4

(4) All other uses not specified in the above tables shall have minimum off-street parking and off-street loading spaces as determined by the City Council.

Penalty, see § 155.999

§ 155.073 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.

<i>Use</i>	<i>Gross Square Feet Floor Area</i>	<i>Number of Off-Street Loading Spaces</i>
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

§ 155.074 FENCES.

Fences may be erected in required yards, provided they meet or exceed the following requirements:

- (A) No barbed wire fence shall be erected or maintained.
- (B) No fence shall be erected or maintained in a manner as to unreasonably obstruct the view of others or their access to light or air.
- (C) For R-1, R-2, R-3, R-4, CB or NRC District, fences not more than 6 feet in height may be erected on any part of a lot other than in the required front yard. Fences not more than 4 feet in height may be located on any part of the lot.
- (D) For GB, GI, or HI District, fences not more than 8 feet in height may be erected on any part of a lot other than in the required front yard.
- (E) No fence shall be erected which violates § 155.070, visibility at intersections.
- (F) To preserve the neighborhood character of the Residential District, fences along the perimeter of a front yard shall be of a traditional design and shall not be more than 30% solid.
- (G) The maximum fence height for golf courses, public swimming pools, school track and field areas, parks and ball parks shall be 8 feet and for public tennis courts, 12 feet on any portion of the lot. Fences associated with these uses shall not be more than 30% solid.
- (H) Snow fencing not exceeding 4 feet in height shall be permitted in all districts provided it is removed between April 1 and November 1 of each year. No snow fence shall extend into the street right-of-way line unless installed by the city or a contractor having a permit from the city.
- (I) All exterior fences constructed, which are parallel to and/or face the street/alley or public property shall have the smooth/finished side, the side without the support bracings or frame, of the fence facing toward the outside when there is only 1 smooth/finished side.

§ 155.075 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. Exceptions: The Planning and Zoning Commission may grant an exception to the 300 feet distance from the telecommunications tower, but not less than a distance of twice the fall radius of the telecommunications tower, to any residentially zoned or used property for stealth or camouflaged towers only if a public hearing is conducted by the Planning and Zoning Commission wherein the design is approved. Notice of public hearing to approve the design shall

be sent to all property owners within 300 feet at least 10 days prior. Application for Planning and Zoning Commission to consider an exception must be submitted at least 14 days prior to the hearing and include pictures and information on the proposed design(s), maximum tower height(s), and other information on the form provided by the city deemed appropriate for consideration of the exception request.

(B) A minimum distance of ½-mile between telecommunications towers measured from the base of 1 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 2 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 city 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) (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) 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.

§ 155.076 SITE-BUILT SINGLE-FAMILY AND MULTI-FAMILY DWELLING STANDARDS.

(A) The pitch of the main roof shall not be less than 1 foot of rise for each 4 feet of horizontal run.

(B) The minimum width of the main body of the site-built dwelling shall not be less than 20 feet, as measured across the narrowest portion.

(C) A wood or masonry foundation shall form a complete enclosure under the exterior walls.

§ 155.077 LANDSCAPING STANDARDS.

It is the desire of the city to encourage development, which is environmentally sensitive and aesthetically pleasing. To assist in these objectives, a minimum standard for landscaping is prescribed.

(A) Within any zoning district, at least 90% of the required front yard setback, including the parkway and 50% of the rear yard, shall be landscaped and maintained with living ground cover except for the portion of the front or rear yard necessary for hard surfaced driveways and parking (§ 155.072).

(B) Within the R-1, R-2, R-3, GB, CB, NC, GI, and HI districts, 1 tree per 50 feet of frontage is required. A minimum of 1 tree must be planted in the front yard. No more than 50% of the required trees may be planted in the parkway. No more than 25% of the required trees may be deciduous ornamental, evergreen, or coniferous trees. Exception: If parking facilities or buildings utilize zero setbacks as permitted by ordinance, 1 tree per 50 feet of frontage shall be required within the parkway, subject to approval by the Zoning Administrator.

(C) Each existing tree of at least 1 3/4-inch caliper in size shall count toward the tree requirement.

(D) Only permitted, deciduous shade trees may be planted in the street right-of-way.

(E) Where feasible, landscape areas must be capable of providing a substantially full expanse of foliage within 3 years after planting. All deciduous trees shall be 1 3/4-inch caliper and all deciduous ornamental shall be 1 1/4-inch caliper. Berms or other landscaping techniques may be used for all or part of the 6 foot screening if they have a maximum grade of 3 feet horizontal to 1 foot vertical and sodded or planted with other acceptable living ground cover.

(F) A fence, wall, or shrubbery 6 feet in height and of a character necessary for adequate screening shall be installed or planted when a commercial use is located adjacent to residentially used property or across the right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the 6-foot screening if they have a maximum grade of 3 feet horizontal to 1-foot vertical and sodded or planted with other acceptable living ground cover.

(G) A setback of at least 5 feet shall be provided between a commercial parking lot and residentially zoned property. If proper screening is provided, the setback may be 2 feet.

(H) When property is adjacent to or within 150 feet of residentially used or zoned property, the following lighting standards apply:

(1) The maximum light level shall be no greater than 3 foot candles field measured at the property line (ground level);

(2) The maximum height of light luminaries shall be 25 feet above the ground;

(3) Canopy luminaries and other on-site lighting with luminaries greater than 2000 lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture;

(4) The maximum number of canopy luminaries shall be determined by the following industry standard:

$\frac{\text{Canopy length (in feet)} \times \text{canopy width (in feet)} \times 3}{\text{Maximum No. of Luminaries lamp wattage}}$
--

(5) All other light luminaries shall have a maximum height of 38 feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies; and

(6) The following structures or uses are exempt from these lighting standards: public recreation facilities, parks, pedestrian walkways, illuminated flags or statues, airport runways, telecommunication towers, broadcast towers, and historic period lighting.

(I) *Special requirements for electrical substations.* A fence 7 feet in height shall encompass the electrical substation. An opaque screen shall be provided for any side abutting a residential zone.

§ 155.078 HOME OCCUPATIONS.

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

(A) The occupation must be conducted within a residential dwelling unit.

(B) The occupation must be clearly incidental and secondary to the principal use of the residential dwelling for residential dwelling purposes.

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

(D) There can be no evidence other than the nameplate that will indicate from the exterior that the building is being utilized in part for any other purpose other than that of a residential dwelling. No sign shall be attached to the building other than a nameplate. The sign shall not be illuminated or more than 1 square foot in area.

(E) Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a residential dwelling.

(F) Must be engaged in providing services to the general public such as professional services, financial services, repair shops, beauty shops, barber shops, shoe repair, photographic

and art studios, family day care, etc... Sales of items related to the services being provided are allowed.

(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.

§ 155.079 MANUFACTURED HOMES.

Refer to Chapter 151: Mobile Home Parks.

§ 155.080 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) The uses shall be an incidental use with an owner-occupied principal dwelling structure provided that not more than 5 bedrooms for up to an average of 10 guests per night in a dwelling structure shall be used for such purpose.

(D) Off-street parking requirements shall be 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) 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.

(F) 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.

(G) Signs shall not be more than 4 square feet in area, and shall not be illuminated.

§ 155.081 WIND ENERGY CONVERSION SYSTEMS.

(A) *General.* Wind energy conversion systems shall be allowed as conditional uses in certain zoning districts. In addition to the standards set forth in § 155.095 regarding all conditional uses, all wind energy conversion systems shall also meet all requirements of this section.

(B) *Commercial sale of power prohibited.* Any wind energy conversion system shall be used only for the purpose of generating power for the property on which the wind energy conversion system is located, or for the purpose of transmitting power to the electrical grid of an electric utility company through an approved interconnection.

(C) *Utility interconnections.* Any wind energy conversion system shall be constructed and operated, and any interconnection between a wind energy conversion system and an electric utility company shall be allowed only in accordance with all local, state, and federal regulations including regulations issued by the South Dakota Public Utilities Commission and the Federal Aviation Administration. Additionally, electrical interconnections shall be allowed only in accordance with the applicable standards of the electric utility company.

(D) *Required setbacks.* A minimum setback of 1½ times the height of the wind energy conversion system shall be maintained between the wind energy conversion system and any property line, structure intended for human occupation, overhead utility line, or other tower support base.

(E) *Tower height.* In no event shall the height of a wind energy conversion system exceed 90 feet as measured from the ground to the rotor hub. Further, there shall be no less than 30 feet between the lowest arc of the rotors of a wind energy conversion system and the ground, any portion of a structure or any tree.

(F) *Rotor size/operation.* The maximum size of the rotors of a wind energy conversion system shall be reviewed upon application for a conditional use. In determining the appropriate size for the rotors, the city shall consider such factors as noise, proximity to surrounding residences, safety and aesthetic issues. All systems shall be equipped with appropriate braking devices or similar protective devices to slow down or stop the rotors if the wind exceeds the capacity of the system.

(G) *Noise.* No wind energy conversion system shall produce more than 60 decibels of sound measured at the closest point on the closest property line from the base of the system. Information from the manufacturer of the wind energy conversion system shall be submitted at the time of the submittal of the conditional use, ensuring that this requirement can be met once the system is operational.

(H) *Electromagnetic interference.* No wind energy conversion system shall produce electromagnetic interference so as to disrupt transmissions such as those from radio, television or microwave towers. At the time of application for the conditional use, the petitioner must submit information from the manufacturer indicating that, once operational, the wind energy conversion system will not adversely affect the transmissions. If necessary, generators and alternators shall be filtered, shielded, or both so as to prevent the emission of radio and television signals.

(I) *Tower access.* Appropriate safety measures must be undertaken to discourage unauthorized climbing of a wind energy conversion system tower. Appropriate measures shall include either:

(1) The construction of a 6-foot tall chain link fence with locking gate around the tower;

(2) The tower shall be constructed so that the lowest climbing access shall be at least 12 feet above the ground; or

(3) A locked anti-climb device shall be installed on the tower.

(J) *Warning information.* Information related to the maximum power output, nominal voltage and maximum current, and emergency shut-down procedures for the wind energy conversion system shall be posted near the base of the tower in a visible location.

(K) *Lighting.* Unless required by a more restrictive regulation, no lighting shall be installed on a wind energy conversion system.

(L) *Tower design.* In reviewing the conditional use for a wind energy conversion system, the city shall consider the design and color of the tower to ensure that no significant adverse impacts are occurring to neighboring property owners, including, but not limited to, infringement into natural and urban viewsheds, historic property, major community entryways, parks, schools, churches, playgrounds, or similar public and recreational uses.

(M) *Manufacturer warranty/maintenance information.* Upon application for a conditional use for a wind energy conversion system, the petitioner shall submit a manufacturer's statement documenting that the system has been successfully and safely operated in atmospheric conditions that are similar to conditions in the city. Further, the petitioner shall provide a copy of the manufacturer's warranty indicating that the system is warranted against any system failures reasonably expected during severe weather conditions. Further, the petitioner shall submit system specifications including maximum power output and a maintenance schedule for the system.

(N) *Construction standards.* Any wind energy conversion system shall be constructed in accordance with all applicable life, safety, building and fire codes including but not limited to the following:

(1) *Winder energy conversion system.* An applicant for a building permit for a wind energy conversion system shall submit plans and specifications stamped by a registered engineer.

(2) *Lightning protection.* Any wind energy conversion system shall have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system shall effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters and deep earth grounding.

(O) *Abandonment/removal.*

(1) Any wind energy conversion system which has not been used for a period of 6 months or more shall be declared abandoned. Upon abandonment of the system, the city shall revoke the conditional use and the system shall be removed at the expense of the property owner. The city shall determine that a wind energy conversion system has not been used if the following criteria apply:

(a) The wind energy conversion system has not been operating for a substantial period of time and the owner of the system is unable to provide documentation demonstrating that the system has produced a minimum of 25% of the power output as stated in the system specifications over the past 6 months;

(b) The wind energy conversion system has fallen into obvious disrepair and/or has been condemned by the city.

(c) The wind energy conversion system has become violative of some other local, state or federal law and the owner of the system has not taken appropriate actions to remedy the problem.

(2) If deemed appropriate, the city may stipulate through the conditional use that the wind energy conversion system shall be removed at the owner's expense, upon the rezoning of the subject property to a zoning district classification in which wind energy conversion systems are not allowed as either a permitted use or conditional use.

Penalty, see § 155.999

§ 155.082 ADJUSTMENTS TO YARD REGULATIONS.

(A) *Location of some accessory buildings.* Accessory structures located 10 feet or more from the main building and located in the rear yard may be erected within 4 feet of the side and rear property lines. In all cases, accessory structures shall not occupy more than 30% of the rear yard. A garage, which is entered directly from the alley, shall not be closer than 8 feet to the alley line.

(B) *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.

(C) *Adjustment to side yard requirements.* Buildings constructed prior to the effective date of this chapter with side yard setbacks of less than required by this chapter, may have additions erected provided the new addition conforms to the side yards required for new construction.

(D) *Projection from buildings.* Every part of any required yard shall be open to the sky and unobstructed except:

(1) Eaves may project 24 inches into a front, side, or rear yard;

(2) Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features that may project 24 inches;

(3) Air conditioners may project into a required side or rear setback;

(4) Porches, decks and terraces in front yards that extend more than 30 inches above the level of ground that are open, uncovered and unenclosed may project into a required front yard for a distance not exceeding 10 feet. Balconies and paved terraces may project into a required front yard for a distance not exceeding 6 feet.

(5) Terraces, uncovered porches, platforms, decks, and ornamental features which do not extend more than 30 inches above the level of ground may project into a required yard, provided these projections be distances at least 2 feet from the adjacent side or rear lot line.

(E) *Exception to side yard requirements.* Lots platted prior to the adoption of this chapter, located in the R-1 and R-2 districts, that are no more than 60 feet in width as measured from the property lines, may have side yards reduced to 5 feet for the purposes of redevelopment and new construction, provided such redevelopment and new construction maintains or improves the appearance, style, and character of the surrounding neighborhood. This exception does not apply to additions, alterations, or other improvements to existing structures. When considering an exception, the building official will consider, among other things, the presence of alleys, the proposed arrangement of house and garage frontage, and scope of the project.

§ 155.083 NON-CONFORMING USES AND STRUCTURES.

A lawful use or structure existing at the time this chapter is adopted or amended may continue even though the use does not conform with the district regulations subject to the following provisions:

(A) If no structural alterations are made, a nonconforming use or structure may be changed to another nonconforming use or structure of the same or more restricted zoning district.

(B) Whenever a nonconforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.

(C) Should any nonconforming use or structure be destroyed by any means to the extent of more than 50% of its replacement cost, such nonconforming use shall not continue.

(D) In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of 1 year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

(E) Any nonconforming use may be extended throughout any part of a structure which was arranged or designed for the use previous to the adoption of this chapter, but shall not be extended outside the structure.

(F) No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.

ADMINISTRATION AND ENFORCEMENT; PERMITS

§ 155.095 CONDITIONAL USE PERMITS.

Any conditional use approved by the Planning and Zoning Commission shall conform to the standards set forth for such uses below. These standards shall be construed to be the minimum requirements for any of the specified conditional uses, and the Planning and Zoning Commission may require additional reasonable stipulations at their discretion. In all cases, the impact of the proposed use on adjacent properties shall be a major consideration.

(A) *Procedure.* The Planning and Zoning Commission may authorize by conditional use permit, those uses specifically designated as conditional uses in §§ 155.030 through 155.040, and §§ 155.055 through 155.061. The Planning and Zoning Commission shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare as they pertain to the criteria contained in 155.095 (E)(b) in the issuance of the conditional use permit.

The Planning and Zoning Commission shall not consider the following when placing conditions on a conditional use permit application: race, color, religion, sex, national origin, familial status, disability, age, cost of construction, property values, owner of land or property, rental use of property, or any other monetary consideration.

(B) *Application.* To obtain a conditional use permit, the applicant shall file an application, therefore, in writing on a form furnished by the Zoning Administrator. Every application shall contain the following information:

- (1) Legal description of the land on which the conditional use is requested, together with a local street address;
- (2) Name and address of each owner of the property;
- (3) Name, address, phone number and signature of the applicant;
- (4) Zoning district classification under which the property is regulated at the time of such application;
- (5) Be accompanied with a site plan, unless waived by the Zoning Administrator; and
- (6) Any other information concerning the property as may be requested by the Zoning Administrator or the Planning and Zoning Commission.

(C) *Fees.* Upon the filing of any application for a conditional use permit with the Zoning Administrator, the applicant shall pay to the city the appropriate fee as designated by resolution of the Vermillion City Council.

(D) *Information on site plan.*

(1) In addition to the following information, plans shall be drawn to scale upon substantial paper, or provided electronically, 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 section and all relevant laws, ordinances, rules and regulations. The Zoning Administrator may waive the submission of plans, if he or she finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this section.

- (a) The address of the property and the legal description.

- (b) The name of the project and/or business.
- (c) The scale and north arrow.
- (d) All existing and proposed buildings or additions.
- (e) Dimensions of all buildings.
- (f) Distance from all building lines to the property lines at the closest points.
- (g) Building height and number of stories.
- (h) Dimensions of all property lines.
- (i) Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles.
- (j) Screening; show height, location, and type of material to be used.
- (k) The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
- (l) Name and location of all adjacent streets, alleys, waterways and other public places.

(2) Approved plans shall not be changed, modified, or altered without authorization from the Planning and Zoning Commission giving final approval, and all work shall be done in accordance with the approved plans.

(E) *Review and public hearing procedure.*

(1) Prior to the approval of a conditional use permit, the Zoning Administrator shall meet with the applicant to review the application. After review of the application, the Zoning Administrator shall make a recommendation to the Planning and Zoning Commission to either approve or not approve the application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.

(2) The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Planning and Zoning Commission. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at City Hall and on the property affected by the proposed conditional use permit no less than 7 days prior to the scheduled public hearing. No less than 10 days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the city.

(3) The following procedure shall be followed by the Planning and Zoning Commission in considering the recommendation of the Zoning Administrator:

(a) A public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning and Zoning Commission.

(b) Before any conditional use permit shall be granted, the Planning and Zoning Commission shall make written findings certifying that the conditional use being reviewed complies with the City's comprehensive plan and all current ordinances governing the individual conditional uses and that satisfactory provisions and arrangements have been made concerning the following, where applicable:

1. Ensure that ingress and egress to the property is as required by § 154.14 (E).;

2. Review and, if necessary, place conditions to ensure automotive and pedestrian safety, traffic flow and control, and access in case of fire or catastrophe within the development;

3. Ensure that off-street parking and loading areas are as required by §§ 155.072 and 155.073;

4. Ensure that refuse areas are provided for within the development;

5. Ensure that developments have appropriate fire protection (fire hydrants, fire suppression systems, etc...);

6. Ensure that screening and buffering with reference to type, dimensions and character complies with § 155.077 or any requirements within the zoning district where the development will occur;

7. Ensure that the proposed exterior lighting complies with § 155.077;

8. Ensure that all of the setbacks are being met for the development as set within the respective zoning district;

9. Review and, if necessary, place conditions to ensure general compatibility with adjoining properties and other property in the zoning district in which such use is to be located; and

10. Review and, if necessary, place conditions to ensure that the conditional use meets the goals and objectives of the most recently adopted comprehensive plan.

(c) The Planning and Zoning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning and Zoning Commission shall be final unless an appeal is filed in accordance with § 155.095(F).

(F) *Appeal of Planning and Zoning Commission decision.* The decision rendered by the Planning and Zoning Commission on a conditional use permit may be appealed to the City

Council. The applicant or any other person aggrieved by the decision of the Planning and Zoning Commission shall file a written appeal with the Zoning Administrator within 5 working days of the Planning and Zoning Commission's decision. When an appeal is filed, the Zoning Administrator shall present the Planning and Zoning Commission's decision to the City Council for review. Notice of the meeting shall be given as required by § 155.095(E). The City Council shall vote to either uphold, overrule or amend the decision of the Planning and Zoning Commission.

(G) (1) *Expiration.* A conditional use permit shall expire 1 year from the date upon which it becomes effective if no work has commenced. Upon written request to the Zoning Administrator and prior to the conditional use permit expiration date, a single 1-year time extension for the conditional use permit may be granted by the Zoning Administrator, subject to the following conditions:

(a) The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit;

(b) Due to other on-going permitting processes or necessary engineering/planning studies relating to the specific project for the conditional use permit that may impact the one-year schedule for project completion.

(2) A conditional use permit approved in accordance with § 155.095 shall expire one year after the use discontinues on the premises, or the use is changed to another permitted use in the underlying district.

§ 155.096 POWERS AND DUTIES OF ZONING ADMINISTRATOR.

The Zoning Administrator is hereby authorized and directed to enforce all the provisions of this chapter and establish rules for its administration. For such purposes, he or she shall have the powers of a law enforcement officer. The Zoning Administrator shall have the power to render interpretations of this chapter. The interpretations shall be within the intent and purpose of the zoning regulations, and be set forth in writing. In addition, the Zoning Administrator may appoint or solicit technical advice, inspectors, city officials and other city employees to assist with the administration of the zoning regulations.

§ 155.097 RIGHT OF ENTRY.

(A) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, the Zoning Administrator and authorized representatives may enter such building or premises at all reasonable times to inspect. Provided the building or premises is occupied, the Zoning Administrator or authorized representative shall first present proper credentials and request entry. If the building or premises are unoccupied, the Zoning Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If the entry is refused, the Zoning Administrator or authorized representative shall have recourse to every remedy provided by law to secure entry.

(B) When the Zoning Administrator or authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry of the

building or premises, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect to promptly permit entry.

§ 155.098 STOP ORDER.

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

§ 155.099 BUILDING PERMITS AND FEES.

(A) *Building permits.* No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this chapter including use, height, and number of occupants, lot area, off-street parking or yard requirements, shall occur without a building permit issued by the Zoning Administrator.

(1) An application for building permit, available from the Zoning Administrator of the city, shall be completed by the landowner requesting the building permit. Completed applications shall be returned to the Zoning Administrator for review. To be considered complete, the application form shall be accompanied by the following additional items:

(a) Any required attachments and city fees;

(b) Two copies of plans, showing the dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; the location and dimensions of the proposed building or alteration; the materials of which it is to be constructed; and the details and type of construction to be used;

(c) Any additional information, as requested by the Zoning Administrator, as lawfully may be required to determine conformance with and provide for the enforcement of this chapter.

(2) A temporary building permit may be issued by the Zoning Administrator for a period not exceeding 180 days during alterations or partial occupancy of a building pending its completion. The Zoning Administrator may attach conditions and safeguards to the temporary permit to protect the safety of the occupants and the public.

(3) One copy of the plans shall be returned to the applicant after the Zoning Administrator has marked the copy as either approved or disapproved, and attested to the same by signing the copy of the plans. One copy of the plans, similarly marked, shall be retained by the Zoning Administrator for city records.

(4) (a) If the Zoning Administrator determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, except upon completion of 1 of the following processes established in these regulations, as may be applicable to the proposed action. The Zoning Administrator shall inform the applicant when 1 of the following processes may be applicable:

1. Variance.
2. Conditional use.
3. Amendment.

(b) Issuance of a building permit shall indicate that, in the opinion of the Zoning Administrator, the proposed use and/or alterations of existing use are in compliance with the requirements of these zoning regulations. Issuance of a building permit shall not be construed as waiving any provisions of these regulations. Proposed uses and/or alterations of existing uses that are not in compliance with the requirements of these zoning regulations shall not be issued a building permit.

(5) (a) For the demolition or removal of a building that is furnished with sewer, a permit may be granted; provided, however, that in such case, a deposit guaranteeing the abandonment of the sewer service shall be deposited at application for the permit, the deposit to be in an amount to be determined by policy of the City Council.

(b) The deposit will be refunded upon completion of the work or the city will arrange for the work at actual cost, plus 10% to be paid for from the deposit, work to be completed within 30 days after the issuance of permit.

(c) If sewer service is to be reused or new service required for a new structure in the immediate future at the same location, deposit may be waived by the Zoning Administrator.

(B) *Fees.* A schedule of fees, charges, and expenses for permits, change of zone, appeals, and other matters pertaining to this chapter shall be established by resolution of the City Council. The current fee schedule shall be available from the Zoning Administrator. All fees shall be the property of the city and shall be paid over to the Zoning Administrator for credit to the general fund of the city, which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

(C) *Expiration of a building permit.* Every building permit issued shall become invalid unless the work on the site authorized by the permit is commenced within 180 days after its issuance, or if the work authorized on the site by the permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Zoning Administrator is authorized to grant, in writing, one extension of time, for a period not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

§ 155.100 BOARD OF ADJUSTMENT.

(A) *Establishment.* A Board of Adjustment is hereby established for the City of Vermillion, which shall consist of the members of the City Council, pursuant to SDCL § 11-4-24.

(B) *Powers and duties.* The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Zoning Administrator in the enforcement of this chapter; and

(2) To hear and decide upon petitions for variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.

(C) *Appeal procedure.*

(1) Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Administrator, may present to that official, a notice of appeal, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be filed with the Zoning Administrator of the City of Vermillion, who shall transmit to the Board of Adjustment all information and records concerning the appeal. Such notice of appeal shall be presented to the Zoning Administrator within 30 days after the filing of the decision in the office of the Zoning Administrator.

(2) The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the chairperson and at such other times as necessary. Each session, at which an appeal is to be heard, shall be a public meeting. The Zoning Administrator shall notify the appellant by mail, and shall post notices of the public hearing at City Hall and on the property affected by the proposed appeal (if applicable) no less than 7 days prior to the scheduled public hearing. No less than 10 days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the city.

(3) A public hearing shall be held. The appellant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of 2/3 of the members of the Board of Adjustment shall be necessary to approve any appeal or arrive at any determination.

(D) *Variances.* The Board of Adjustment shall have the jurisdiction to hear and decide upon petitions for variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. For purposes of these regulations, public interest shall include the interests of the public at large within the city, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance. The following issues are to be considered, each and all of them, as determining factors in whether or not the issuance of a variance is justified:

(1) An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this subsection, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.

(2) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) The variance requested is the minimum variance that will alleviate the hardship.

(4) Granting of the variance will comply with the general purpose and intent of this chapter, and will not be offensive to adjacent areas or to the public welfare.

(5) No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.

(6) Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.

(7) In order to preserve the intent of these zoning regulations and to protect the public interest, the Board of Adjustment may attach conditions to a variance. A variance shall remain valid only as long as the property owner complies with any terms and conditions of the variance, as attached by the Board of Adjustment.

(8) An application for a variance, available from the Zoning Administrator of the City of Vermillion, shall be completed by the landowner requesting the variance. Completed applications shall be returned to the Zoning Administrator for review. To be considered completed, the application shall contain the following information:

(a) Legal description of the land on which such variance is requested, together with local street address;

(b) Name and address of each owner of the property;

(c) Name, address, phone number and signature of the applicant;

(d) Zoning district classification under which the property is regulated at the time of such application;

(e) Description of the variance sought from the zoning regulations;

(f) Be accompanied with a site plan, unless waived by the Zoning Administrator.

(9) The Zoning Administrator shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application. The Authorized

Official or the Board of Adjustment may refer requests for variances to the Vermillion Planning and Zoning Commission for review and recommendation.

(10) The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at City Hall and on the property affected by the proposed variance no less than 7 days prior to the scheduled public hearing. No less than 10 days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the city.

(11) The public hearing shall be held. The applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of 2/3 of the members of the Board of Adjustment shall be necessary to approve any variance or arrive at any determination.

(E) *Court review.* Any person aggrieved by any decision of the Board of Adjustment may petition a court of record within 30 days after the filing of the Board's decision as provided by SDCL § 11-4-25.

§ 155.101 AMENDMENTS AND CHANGE OF ZONE.

The regulations imposed, and the districts created, under this section may be amended, supplemented or repealed by ordinance, but no such amendment shall be made without public notice and without a public hearing, at which, parties in interest and citizens shall have an opportunity to be heard.

(A) At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper of the city, the notice to contain a brief statement describing the proposed amendment. If the

proposed amendment will change the boundaries of a zoning district, the Zoning Administrator shall post a sign on the property included in the application for a continuous period of 10 days immediately prior to the public hearing and shall notify all owners of property within 250 feet of the proposed boundary change by mail. The mailed notice shall be postmarked 10 business days prior to the hearing and state the date, time and location of the public hearing.

(B) (1) Prior to the consideration of any ordinance proposing changes in the zoning ordinance, there shall first be filed, with the Finance Officer, the written consent of the owners of 45% of the aggregate area having the right of protest against such proposed ordinance, if adopted, as would be determined by SDCL § 11-4-5. Unanimous ownership consent for a parcel or lot to be included in the 45% aggregate area is required.

(2) Proposed changes initiated by the city, or for properties within one year after annexation, shall be exempt from the provisions of this section.

(C) No application requesting a change of zone for any property whose application includes any such property, either entirely or substantially the same, as that which has been

denied by the City Council, shall again need to be considered by the Planning and Zoning Commission before the expiration of 6 months from the date of the final action of the City Council.

§ 155.999 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violations of conditions established in the granting of variances or conditional uses shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction be subject to the penalties established by South Dakota law. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure or premises, any licensed design professional, builder, contractor, agent or other person who commits, maintains, assists in or participates in violation may be found guilty of a separate offense and suffer the penalties provided.

Dated at Vermillion, South Dakota this 2nd day of December, 2019.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY *Kelsey Collier-Wise*
Kelsey Collier-Wise, President

ATTEST:

BY *Michael D Carlson*
Michael D Carlson, Finance Officer

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