

DEFINITIONS

Definitions

For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall means mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

Terms

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Abut - Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Agricultural Structure - A structure customarily incidental and necessary to farming and the raising of animals including barns and other animal shelters, corrals and fences, silos and storage sheds for machinery and crops.

Accessory Building - A subordinate building, the use of which is purely incidental to the main building, is equal to or less than the prescribed square footage for the zoning district in which it is located, has a sidewall height of less than fourteen (14) feet, and is unattached from the principal building at least ten (10) feet.

Accessory Use or Structure - A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

Actual Construction - Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially commenced, preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Addition - Any construction which increases the size of a building such as a porch, attached garage or carport, or a new room.

Advertising Sign - An advertising sign, billboard, or poster panel which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such advertising sign is located or to which it is affixed, but does not include those business signs which direct attention to the business on the premises to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

Agriculture - The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards along with the raising and feeding of livestock and/or poultry shall be considered an agricultural use if the volume of livestock does not constitute an Animal Feeding Operation as defined herein.

An animal feeding operation primarily for the growing and/or finishing of livestock is not considered an agricultural use. Grain elevators or Agricultural Product Processing Facilities shall not be considered an agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agriculture Product Processing Facility - A business activity customarily designed to process raw agricultural products into value added products. Agricultural processing facilities include, but are not limited to; feed mills, ethanol plants, soy bean processing facilities, cheese plants, milk processors, packing plants and rendering facilities.

Agricultural Use Covenant Running with the Land - An agreement required by ordinance by which parties, hereafter known as grantors acknowledge that adjacent land may be subjected to conditions resulting from agricultural operations. Once executed, said agreement runs with the land and cannot be separated from the land nor transferred without it.

Alley - A way which affords only a secondary means of access to abutting property.

Amendment - A change in the wording or substance of this ordinance or a change in the boundaries or classifications upon the official zoning map.

Animal Feeding Operation - An animal feeding operation that stables confines, and feeds or maintains an established number of animal units in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership are a single animal operation if they adjoin each other, are within one mile, or if they use a common area or system for the disposal of manure. For the purpose of these regulations, Animal Feeding Operations are divided into the following classes:

<u>CLASS</u>	<u>ANIMAL UNITS</u>
Class A	2,000 or more
Class B	1,000 – 1,999

Animal Feeding Operation, New: An animal feeding operation (see definitions), constructed after the effective date of this ordinance or any subsequent amendment of applicable Articles or Sections. Operations in existence upon adoption or prior to future amendments may be considered a new operation if the facility is expanded to facilitate an increase of more than one hundred (100) animal units. Any new construction relating to an expansion must comply with the applicable performance standards. The Planning Commission and Board of Adjustment shall have the authority to decrease or waive any standard deemed contradictory to the intent of the zoning ordinance upon review and in accordance with the conditional use and variance process described herein.

Animal Units - A unit of measure for livestock equated as follows; one animal unit is equivalent to:

- 1 Cow, feeder, or slaughter beef animal, excluding calves under 300 pounds;
- 0.5 Horse;
- 0.7 Mature dairy cattle, excluding dairy calves under 300 pounds;
- 0.27 Farrow-to-finish sows;
- 2.13 Swine in a production unit;
- 10 Nursery swine less than 55 pounds;
- 2.5 Finisher swine over 55 pounds;
- 10 Sheep or lambs;
- 30 Laying hens or broilers;
- 5 Ducks and/or geese; and
- 55 Turkeys.

Animal Unit Conversion Table - A conversion table designed to integrate the definition of an animal feeding operation with the animal unit definition.

Animal Species	1000 Animal Units	2000 Animal Units
Cow, feeder or slaughter beef animal, excluding calves under 300 pounds	1,000	2,000
Horses	500	1,000
Mature dairy cattle, excluding calves under 300 pounds	700	1,400
Farrow to finish sows	270	540
Swine in a production unit	2,130	4,260
Nursery swine less than 55 Pounds	10,000	20,000
Finisher swine over 55 pounds	2,500	5,000
Sheep	10,000	20,000
Laying hens or broilers	30,000	60,000
Ducks and/or geese	5,000	10,000
Turkeys	55,000	110,000

Animal Waste Facility - A structure designed and constructed to store and/or process animal waste. Animal waste facilities include but are not limited to holding basins, lagoons, pits and slurry stores.

Apartment - A portion of a multiple dwelling used as a separate housing unit and having cooking facilities and a private bath.

Applicant - For purposes of this Ordinance a person shall be deemed to be an applicant if they are the owner of the proposed facility; an officer or director of the owner thereof; or an owner of any interest, direct or indirect, in any company, except a publicly traded company, which is the owner of the proposed development.

Aquaculture - Land devoted to the hatching, raising and breeding of fish or other aquatic plants or animals for sale or personal use.

Arcade - A place of business where an individual, association, partnership or corporation maintains four or more amusement devices for public use.

Automobile-Machinery Service Station - Building and premises where motor fuel, oil, grease, batteries, tires, and vehicle accessories may be supplied and dispensed at retail, and where, in addition, customary repair services may be rendered.

Automobile Wrecking Yard - Any premises on which two or more self-propelled vehicles not in running order or operating condition are stored in the open. See also Junkyard and Salvage Yard.

Bar - A building or part thereof where, in consideration of payment therefore, liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food.

Basement - A portion of a building with the floor located below the mean grade level. For the purpose of this ordinance, any such basement with more than 4 feet above grade level shall be counted as a story. No dwelling unit shall be situated in a basement having less than 4 feet above grade level.

Billboard - See Sign, Off-Site.

Blinds, Wildlife - A permanent or semi-permanent building or structure designed to conceal one from wildlife for the purpose of hunting, photography, observation, or similar activity. Blinds may be located at ground level, elevated, free standing, or affixed to an object such as a tree or pole. This term shall include but is not limited to operational and non-operational farm equipment, prefabricated structures, tree stands, and tree houses.

Board of Adjustment - The Board of Adjustment is appointed by the Chairman of the Board of County Commissions and confirmed by the Board.

Boarding, Lodging or Rooming House - A building other than a hotel, where lodging and meals for six (6) or more persons are served for compensation.

Buildable Area - The portions of a lot remaining after required yards have been provided.

Building - The word "building" includes the word structure and is a structure which is entirely separate from any other structure by space or by walls in which there is no communicating doors or windows or similar openings. A principal building including covered porches and paved patios, is a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

Building Line, Front - A line parallel to the street, intersecting the foremost point of the building, excluding uncovered steps.

Building Setback Lines - A line parallel or approximately parallel to the lot lines at a specified distance there from, marking the minimum distance from the lot line that the building may be erected.

Building Site - A lot or parcel, or portion thereof, whether a lot of record or described by metes and bounds, used or intended to be used as the location of a building for housing one or two families.

Building, Alterations of - Any change or rearrangement of the supporting members (such as bearing walls, beams, columns, or girders) of a building, an addition to a building, or movement of a building from one location to another. See Structural Alterations.

Building, Height of - The vertical distance measured from the average grade of the building level of the highest and lowest elevations of the site covered by the building to the top of the roof or parapet of the highest story.

Building, Principal - A building in which is conducted the main use of the lot on which said building is located.

Bus Depot - A building or premises where commercial motor vehicles pick up and discharge fare-paying passengers. Accessory uses may include ticket offices, luggage checking facilities and similar uses.

Business Sign - A sign which directs attention to a business of profession conducted or to a commodity, service, or entertainment sold or offered upon the premises on which such sign is located or to which it is affixed. See also on-site and off-site signs.

Camper - See Travel Trailer.

Campground - Any premises where two (2) or more camping units are parked or placed for camping purposes, or any premises used or set apart for supplying to the public camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures, uses or intended for use or intended wholly, or in part, for the accommodation of transient campers.

Camping Unit - Any vehicle, tent, trailer or portable shelter used for camping purposes.

Car Wash - An establishment having facilities for washing motor vehicles by production line methods which may include a conveyor system or similar mechanical devices. This definition may also include a self-service operation.

Casino - A room or rooms in which legal gaming is conducted.

Cellar - A portion of a building between two floor levels which is partly or wholly underground and which has more than one-half of its height, from finished floor to finished ceiling or to the underside of the floor joists of the story next above, as the case may be, below the average finished grade level adjacent the exterior walls of the building.

Cemetery - Land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried. "Cemetery" may include a structure for the purpose of the cremation of human remains and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments.

Church - A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

Clinic - A building or part of a building used solely for the purpose of consultation, diagnosis and treatment of patients by one or more legally qualified physicians, dentists, optometrists, podiatrists, chiropractors, or drugless practitioners, together with their qualified assistants, and without limiting the

generality of the foregoing, the building may include administrative offices, waiting rooms, treatment rooms, laboratories, pharmacies and dispensaries directly associated with the clinic, but shall not include accommodation for in-patient care or operating rooms for major surgery.

Club - A building owned, leased, or hired by a non-profit association of persons the use of which is generally restricted to due-paying members and their guests. Such club may periodically be rented, or leased, to non-members for gathering such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.

Company - For purposes of this ordinance the term, “company” includes, but is not limited to, any corporation, partnership, limited liability company, limited liability partnership, limited partnership, business trust and any other business entity.

Comprehensive Plan - Any legally adopted part or element of the Gregory County Comprehensive Plan.

Conditional Use - A conditional use is a use that would not be appropriate, generally or without restriction, throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses, if specific provision for such conditional use is made in this Ordinance.

Congregate Housing - A residential facility for elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments and counseling.

Contiguous - Next to, abutting, or touching and having a boundary, or portion thereof, which is adjoining.

Contractor - The person who contracts with an individual or developer to construct a building on a parcel of land prepared by a developer.

Covenant - An agreement, convention, or promise of two or more parties, by deed in writing, signed and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done. The term is currently used primarily with respect to promises in conveyance or other instruments relating to real estate.

Convenience Store - A retail store in which articles for sale are restricted to gasoline sales and a limited range of food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy. Retail sales may also include the limited sale of magazines, books, housewares, toiletries, bait, alcoholic beverages and tobacco.

Day Care Center - Any type of group day care programs including nurseries for children of working parents, nursery schools for children under minimum age for education in public schools, parent cooperative nursery schools, playgroups for pre-school children, programs covering after-school care for school children provided such establishment is licensed by the State and conducted in accordance with State requirements.

Deck - A structure abutting a dwelling with no roof or walls except for visual partitions and railings which is constructed on piers or a foundation above-grade for use as an outdoor living area.

Developer - The owner of the property being platted or replatted or the person designated by the owner as being responsible for the development of the property. The terms “subdivider” and “developer” are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation and/or any officer, agent, employee and trustee thereof who does or participates in the doing of any act toward the subdivision of land within the intent, scope and purview of this Ordinance. The developer shall also be defined as the builder or contractor if they are responsible for the construction of buildings and/or structures or permanent improvements.

Domesticated Large Animals - Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches, such as cattle, horses, hogs, sheep, and mules.

Dormitory - A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

Drive-in Restaurant or Refreshment Stand - Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Due Diligence - Such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.

Dwelling - A building or portion of a building designed for residential purposes, including one and two family dwellings, manufactured and modular homes, but not including hotels, motels or lodging houses.

Dwelling Unit - A room or suite of rooms designed for and occupied by one family and having not more than one kitchen facility.

Dwelling, Efficiency Unit - A dwelling unit having only one room exclusive of bathroom, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted in a multi-family dwelling.

Dwelling, Multiple Family - A residential building designed for, or occupied by, three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single Family - A detached residential dwelling unit other than a manufactured home designed for or occupied by one (1) family only.

Dwelling, Two Family - A building containing two dwelling units designed exclusively for occupancy by two families living independently of each other.

Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

Employee(s) - In regard to off-street parking requirements, all who work in the enterprise, including owners.

Exhibition Areas - A building, group of buildings, or place where art, objects, articles, or livestock or agricultural projects are placed on display for the public.

Family - One (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons, but provided further that domestic servants employed on the premises without being counted as a family or families.

Farm Building - All buildings and structures needed in agricultural operation, including dwellings for owners, operators, farm laborers employed on the farm, and other family members.

Farm Drainage Systems - The term shall include all tiling, waterways, ditches, flood control, watershed, erosion control structures and all water conveyance activities or devices.

Farm Occupation - A business activity customarily carried out on a farm by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal farm operations, without the employment of persons not residing in the home, which does not cause the generation of additional traffic in the area. Farm occupations include, but are not limited to, seed sales and custom combining support facilities.

Farm Unit - All buildings and structures needed in an agricultural operation, including dwellings for owners, operators, and other family members.

Farm, Hobby - An activity carried out in rural residential areas, which includes the planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards.

The raising and feeding of livestock and poultry shall be considered as part of a hobby farm if the area, in which the livestock or poultry is kept, is one (1) acre or more in area for every one (1) animal unit, and if such livestock does not exceed ten (10) animal units.

Farm, Ranch, Orchard - An area of not less than twenty (20) acres of unplatted land, or is a part of a contiguous ownership of not less than eighty (80) acres of unplatted land, which is used for growing usual farm products, vegetables, fruits, trees, and grain, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, hogs and sheep, and including the necessary accessory uses for raising, treating, and storing products raised on the premises; but excluding an Animal Feeding Operation.

The processing and storage of raw agricultural products, such as grain elevators and ethanol plants, shall not be considered a farm, ranch or orchard if such constitutes the main or principal use on the lot or parcel.

Farmstead - The area within or adjacent to the shelterbelt protecting the house and main buildings, including, the shelterbelt, driveway and the land lying between the farmstead and the road.

Fence - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Financial Institutions - The premises of a bank, trust, finance, mortgage, or investment company.

Fishery - As defined by South Dakota Administrative Rules, Sections 74:03:03:02 and 74:03:04:02 (August 8, 1994). Gregory County as described in Section 74:03:03:29. Lake Berry (Section 74:03:03:03(4)) is a warm water permanent fish life propagation waters; Lakes Burke, Dixon, Fairfax, Herrick, and Ponca (Section 74:03:03:03(5)) are warm water semi permanent fish life propagation waters; Lake Stan (Section 74:03:03:03(6)) is a warm water marginal fish life propagation waters. Missouri River (Section 74:03:04:04(1,2,7,8,11)) is a domestic water supply, cold water permanent fish life propagation waters, immersion recreation waters, limited contact recreation waters, and commerce and industry waters. Bull Creek (Section 74:03:04:02(6,8)) is a warm water marginal fish life propagation waters and limited contact recreation waters; Ponca Creek (Section 74:03:04:02(5,8)) is a warm water semi-permanent fish life propagation waters, immersion recreation waters, and limited contact recreation waters.

Flammable or Combustible Liquids, or Hazardous Material - Flammable material is any material that will readily ignite from common sources of heat, or that will ignite at a temperature of 600°F or less. Flammable liquid is any liquid having a flash point below 100°F and having vapor pressure not exceeding forty (40) pounds per square inch (absolute) at 100°F. Combustible liquid is any liquid having a flash point at or above 100°F. Hazardous material includes any flammable solids, corrosive liquids, radioactive materials, oxidizing materials, highly toxic materials, poisonous gases, reactive materials, unstable materials, hyperbolic materials, pyrophoric materials, and any substance or mixture of substances which is an irritant, a strong sensitizer or which generates pressure through exposure to heat, decomposition or other means.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of wetlands, lakes, streams, tributaries, or other water bodies; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) - The official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without an accumulative increase in the water surface.

Game Farm - An area of five (5) acres or more, which is used for producing hatchery, raised game and nondomestic animals for sale to private shooting preserves.

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

Gaming Device or Gaming Equipment - Any mechanical contrivance or machine used in connection with gaming or any game.

Gaming or Gambling - The dealing, operating, carrying on, conducting, maintaining, or exposing for pay of any game.

Gaming or Gambling Establishment - Any premises wherein or whereon gaming is done.

Garage - An accessory building or portion of a building including a carport which is designed or used for the sheltering of private motor vehicles and the storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

Garage, Public - A building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as “gasoline stations” or “service stations”.

Gasoline Station - Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel, and oil or other lubrication substances; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning such vehicles.

Golf Course - A public or private area operated for the purpose of playing golf, and includes a par 3 golf course, club house and recreational facilities, driving ranges and miniature golf courses, and similar uses.

Grain Elevator - Grain storage facilities, which are the principal and primary use of the lot. Said facilities are generally equipped with devices for housing and discharging significant quantities of grain. This definition does not include normal farm product storage and warehousing facilities such as grain bins and where such storage is an accessory use to the parcel.

Greenhouse, Commercial - A building for the growing of flowers, plants, shrubs, trees and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

Home Occupation - A business activity customarily carried on in the home by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal household operations, without the employment of persons not residing in the home, which does not cause the generation of additional traffic in the street.

Horticulture - The science or art of cultivating fruits, vegetables, flowers, and plants.

Hospital - An institution devoted primarily to the operation of facilities of the diagnosis, treatment and cure of disease, illness, injury, or other abnormal physical conditions with provisions for keeping patients overnight.

Hotel - An establishment of transient guests having sleeping rooms without individual cooking facilities for more than six (6) persons for compensation and may or may not provide meals.

Interchange - A grade-separated intersection with one (1) or more direction connections for vehicular travel between the intersecting streets or highways.

Irrigation Systems - This term shall include all canals, ditches, piping, center pivot, and other methods utilized to irrigate cropland. This term does not include systems designed to land apply waste or water from animal feeding operations as defined herein. All irrigate systems shall comply with local, state, and federal regulations.

Junkyard - A place where non-recyclable waste, having no economic values, or waste, which is recyclable, but has no chance of being recycled is deposited.

Kennel - Any place where ten (10) or more dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept or sold for commercial purposes.

Lagoon - Any pond, basin, or other impoundment made by excavation or earthfill for storage or treatment of human sewage or animal waste.

Loading Area - A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Loading Space, Off-Street - Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street loading space is not to be used as off-street parking space in computation of required off-street parking space.

Locker - A meat processing plant and any other facility where meat, poultry or eggs are cooked, cured, smoked or otherwise processed or packed, provided that all activities are carried out indoors. This term shall not include a delicatessen, stockyard, slaughterhouse, tannery, a poultry killing establishment, an animal food factory or an animal by-products plant.

Lot - For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

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

Lot Frontage - The portion of the lot nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this article.

Lot, Corner - A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty five (135) degrees.

Lot Line - The legally defined limits of any lot.

Lot Line, Exterior - The side lot line, which abuts the street on a corner lot.

Lot Line, Rear - The lot line or point of intersection of the side lot lines farthest from and opposite the front lot line.

Lot Line, Side - A lot line other than a front or rear lot line.

Lot of Record - A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Width - The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth or the same distance measured at the front building line.

Lot, Corner - A corner lot is defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Lot, Interior - An interior lot is defined as a lot other than a corner lot with only one frontage on a street.

Lot, Through - A through lot is defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lot.

Lot, Reversed Frontage - A reversed frontage lot is defined as a lot on which the frontage is at right angles or approximately right angles, interior angle less than one hundred thirty-five (135) degrees, to the general pattern in the area. A reversed frontage lot may also be a corner or a through lot.

Major Street Plan - The Transportation Plan in the adopted Gregory County Comprehensive Plan.

Major Recreational Equipment - Major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Manufactured Home - A moveable or portable dwelling which is eight (8) feet or more in width and thirty-two (32) feet or more in length, constructed on a chassis, and which is designed to be towed, designed for year-round occupancy, primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units, separately transportable, but designed to be joined together into one integral unit. Manufactured homes are built according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Manufactured homes are not mobile homes.

The following shall not be included in this definition:

1. Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.
2. Manufactured modular housing which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems.

Manufactured Home Park - A parcel of land under single ownership, which has been planned and improved for the placement of, manufactured homes for non-transient use.

Manufacturing - The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service.

Massage Establishment - Any premises or part thereof where massages are given, offered or solicited in pursuance of a trade or calling, business or occupation provided that the service is rendered by a person duly trained, licensed and registered under the appropriate statute.

Mobile Home - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Modular Home - A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

Motel - A group of attached or detached buildings on the same lot containing sleeping quarters for rental to transients.

Museum - A building or buildings used, or to be used, for the preservation of a collection of paintings and/or other works of art, and/or of objects of natural history, and/or of mechanical, scientific and/or philosophical inventions, instruments, models and/or designs and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and/or other offices and premises used or to be used in connection therewith.

Navigable Waters - A body of water presently being used or is suitable for use for transportation and commerce, or if it has been so used or was suitable for such use in the past, or if it could be made suitable for such use in the future by reasonable improvements.

Nonconforming Lot - A lot of record existing on the date of passage of this ordinance which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming Structure - A lawful structure which exists on the date of passage of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.

Nonconforming Use - A land use or building or structure or portion thereof lawfully existing at the effective date of this ordinance, or at the time of any amendment thereto, which does not conform to the regulations of the zone in which it is located.

Noxious - When used with reference to any use or activity in respect of any land, building or structure or a use or activity which, from its nature or from the manner of carrying on same, creates or is liable to create, by reason or destructive gas or fumes, dust, objectionable odor, noise or vibration or unsightly storage of goods, wares, merchandise, salvage, machinery parts, junk, waste or other material, a condition

which may become hazardous or injurious as regards to health or safety or which prejudices the character of the surrounding area or interferes with or may interfere with the normal enjoyment of any use of activity in respect of any land, building or structure.

Nuisance - Any condition existing that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of a disease.

Nursery - A facility confining a specific number of small and/or young swine averaging ten (10) to fifty-five (55) pounds in size.

Nursing Home, Rest Home, Convalescent Home - A place which undertakes through its ownership or management to provide maintenance, personal, or nursing care for three or more persons who by reason of illness, physical deformity, or old age are unable to care for themselves.

Obstruction - Any structure or vegetation that blocks the complete vision of people.

Office - A building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, any industrial use, clinic, financial institution or place of amusement or place of assembly.

Open Sales Area - Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including but not limited to, passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments. No repair work is done in such area except for incidental repair of times to be displayed and sold on the premises.

Outdoor Storage Area - Any open land or area used for the purpose of storage of any product or part of a product either before, during, or after manufacture, servicing or repair and not displayed for retail sale. This does not include open sales areas.

Owner - The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

Ownership Line - A line defining ownership of property under one owner of record.

Park - An area consisting largely of open space, which may include a recreational area, playground or similar use but shall not include a mobile home park, a campground or trailer park.

Parking Space, Off-Street - For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and un-parked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering may be estimated at three hundred (300) square feet, but off-street parking requirements will be

considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the County.

Pawnshop - An establishment where money is loaned on the security of personal property pledged in the keeping of the pawnbroker.

Performance Standards - Criterion established for the purposes of:

1. Assigning proposed land uses to proper districts; and
2. Controlling noise, odor, glare, smoke, toxic matter, esthetics, vibration, fire/explosive hazards generated by, or inherent in, uses of land or buildings.

Permanent or Intermittent Stream – As defined by the South Dakota Geological Survey.

Permitted Use - A use by right, which is specifically authorized in a particular zoning district.

Person - Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

Places of Assembly - Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.

Planning Commission - The Planning Commission of Gregory County. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not include Board of Adjustment or Zoning Board.

Plaza - A public square or similar open area.

Principal Use - The main use of land or structures as distinguished from a secondary or accessory use.

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

Property Line - The division between two parcels of land, or between a parcel of land and the street and/or road.

Public - Promotion of a public cause or service, including utilities having a franchise from Gregory County, but excluding other for-profit organizations.

Public Building - Any building which is owned, leased, primarily used and/or primarily occupied by a school district or municipal, county, state or federal government, or any subdivision or agency of the school district, municipal, county, state or federal government.

Publicly Traded Company - For purposes of this Ordinance a “publicly traded company” means a company, the shares or other interests in which are regularly traded on the New York Stock Exchange, the American Stock Exchange, NASDAQ or similar recognized security market.

Quarry - A place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial, or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.

Ranch Building - See Farm Building.

Ranch Occupation - See Farm Occupation.

Ranch Unit - See Farm Unit.

Recreational Equipment - The term recreational equipment shall include boats and boat trailers, jet skis, snowmobiles, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Recycling Center - A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Remote fuel depots or keytroll – A structure, usually unmanned, that is used for the sale of gasoline, diesel, or other motor vehicle fuel.

Rent-All Shop - A building or part of a building where residential and commercial equipment is kept for rental to the general public and includes such things as lawn and garden tools, floor cleaning equipment, masonry tools, painting and decorating equipment, moving tools, plumbing tools and power tools.

Repair Shop, Auto Body - A general industrial establishment for the repair of damage to a motor vehicle caused by collision, accident, corrosion or age, and, without limiting the generality of the foregoing, includes the reconstruction of motor vehicles, the painting or repainting of motor vehicles and the rebuilding or conversion of automotive engines or engine parts, but does not include a motor vehicle repair shop, an impounding yard, an automobile service station or a gas station.

Repair Shop, Motor Vehicle - A service commercial or general industrial establishment for the repair or replacement of parts in a motor vehicle and without limiting the generality of the foregoing, shocks, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating or cooling systems, ignition systems, mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but does not include an auto body repair shop, an impounding yard, an automobile service station or a gas station.

Residential Care Facility - A family home, group care facility, or similar facility for 24 hour non-medical care of persons in need of personal services, supervision or assistance for sustaining the activities of daily living or for the protection of the individual.

Restaurant - A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.

Restaurant, Drive-In - A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to eat either off the premises or within automobiles parked on the premises.

Rest Home - See Nursing Homes.

Retail Sales - A building where goods, wares, merchandise, substances, articles or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles or items sufficient only to service such store.

Retail Store - A building where goods, wares, merchandise, substances, articles or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles or items sufficient only to service such store.

Retaining Wall - A structure constructed to hold back or support an earthen bank.

Right-of-Way - An area of land that is legally described in a registered deed for the provision of public access within which there is usually a street.

Right-of-Way Line - A dividing line between a lot, tract, or parcel of land and the public right-of-way.

Roadside Stand - A structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises, bait, and other approved products.

Row of Trees - Ten or more trees planted in a line, separated by a distance of forty (40) feet or less.

Running Gear - The parts which allow a manufactured home to be mobile including the tires, wheels, axles, running lights, and hitch. This definition shall include all mobility items exclusive of the parts of the chassis which make up the structural integrity of the manufactured home.

Salvage Yard - The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of lot, or tract of land for the sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

Satellite Dish/Receiver - A device incorporating a reflective surface that is solid, open mesh, or bar configured and is the shape of a shallow dish or cone designed and used for the reception of television signals relayed back to earth from a terrestrially and/or orbital based communications satellite.

School, Boarding - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools, accredited by the State of South Dakota and provides room and board for its students; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Denominational or Private - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools and accredited by the State of South Dakota; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Public - A school under the sponsorship of a public agency providing elementary or secondary curriculum, and accredited by the State of South Dakota; but excluding private trade or commercial schools.

School, Trade or Commercial - An establishment other than an accredited or licensed public, private or denominational school, offering training or instruction in art, occupation or trade.

Screening - A continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting, that would effectively screen the property which it encloses, and is broken only by access drives and walks.

Section 319 Watersheds – For the purpose of this ordinance shall be defined as any watershed within the County designated as part of the Lewis and Clark Watershed Implementation Project; which, at the time of adoption included the Ponca Creek and Keya Paha Watersheds.

Secondhand Shop - The use of land, or building or structure or part thereof where used goods, wares, merchandise, substances, or articles are offered or kept for sale but shall not include a pawnshop.

Self-Storage Warehouse - A building containing separate, individual self-storage units divided from the floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.

Semi-Portable Agricultural Structures - Anything which requires placement on the ground for agriculture related purposes. Semi-portable agricultural structures include, but are not limited to, feed bunks, calving, lambing, or farrowing sheds, and temporary grain storage facilities.

Service Establishment - Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair and amusement services, health, legal, engineering and other professional services, educational institutions, membership organizations and other miscellaneous services.

Setback - The minimum horizontal distance from a lot line, to a wall of the building, exclusive of permitted projections. The setback shall be measured at right angles to such lot lines.

Shelterbelt - Five or more rows of trees and/or shrubs which reduces erosion and protects against the effects of wind and storms.

Shelterbelt Restoration - The removal and replacement of two or more rows of trees or of trees totaling one-half acre or more, whichever is greater, in an existing shelterbelt.

Sight Triangle - The triangular space formed by the street lines of a corner lot and a line drawn from a point in one street line to a point in the other street line, each such point being thirty (30) feet from the point of intersection of the street lines (measured along the street lines). Where the two (2) street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines. In

the case of arterial highways intersecting with other arterial highways or railways, the distances establishing the sight triangle shall be increased to fifty (50) feet.

Sign - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification or premises not having commercial connotations;
2. Flags and insignias of any government, except when displayed in connection with commercial promotion;
3. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural feature of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign, Exterior On-site - An exterior sign relating in subject to the premises upon which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards, which are off-site signs.

Sign, Off-Site - A sign other than an on-site sign. Off-site signs are conventionally known as billboards regardless of size.

Solar Energy System - A structure or place designed and constructed to generate power for distribution to off-site users. This definition shall not include private facilities designed for private use and not designed for distribution of power to off-site users.

Street - A right-of-way established by a recorded plat to provide the primary means of access to abutting property.

Street Line - The right-of-way line of a street.

Street, Arterial - A public street or highway intended to be used primarily for fast or heavy through traffic.

Structure - Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings and manufactured homes. This definition does not include semi-portable agricultural structures.

Structural Alterations - Any change in the supporting members of a structure such as bearing walls, columns, beams or girders, foundations and poles. See Building, Alterations of.

Swimming Pool - A water filled enclosure, permanently constructed or portable, having a depth of more than twenty four inches below the level of the surrounding land, or an above ground pool, having a depth of more than thirty inches, designed, used, and maintained for swimming and bathing.

Swine Production Unit - An operation confining a specific number of female breeding age swine for the purpose of farrowing. The operation shall farrow no more than an average of one-third (1/3) of the total herd at any one time and the total herd shall not farrow more than an average of two and one-half (2 ½) times within a twelve month period. All farrowed swine shall be relocated to an off-site nursery facility, as defined by this ordinance, at approximately ten (10) pounds or said swine shall be calculated as part of the total animal units.

Tank Farm - A facility having two or more storage containers for the transfer of inorganic liquids or gases and from which wholesale sales of fuel to the public is or may be conducted.

Thrift Shop - A shop operated by a charitable organization, which sells donated used merchandise only. All such merchandise shall be displayed and/or stored in an enclosed building.

Tower - A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for governmental dispatch communications.

Travel Trailer - A moveable vehicle with wheels designed or used as living and sleeping quarters or for recreation or business purposes, and such vehicles that have not had the wheels removed. Including campers, recreation vehicles, and trailer coaches.

Truck or Equipment Terminal - A building, structure or place where twenty (20) or more commercially licensed trucks are rented, leased, kept for hire, or stored or parked for compensation, or from which trucks or transports, stored or parked on the property, are dispatched for hire as common carriers, and which may include warehouse space.

Use - Use shall mean the purpose for which a lot or a building or structure, or any portion thereof, is designed, arranged, intended, occupies or maintained, and "used" shall have a corresponding meaning.

Utility Facilities - Any above-ground structures or facilities, other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

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

Veterinary Clinic - A building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. No outside runs, pens or facilities shall be permitted.

Veterinary Service - Shall be defined as a veterinary clinic except that outside pens and runs are allowed.

Video Rental Shop - The use of land, building or structure for the purpose of renting video cassette recorders and/or video disc players and/or the rental of video tapes and/or discs.

Vision Clearance - An unoccupied triangular space at the intersection of highways, roads, or streets with other highways or streets or at the intersection of highways or streets with railroads. See Traffic Visibility Triangle.

Warehouse - A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances or articles and may include facilities for a wholesale or retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.

Wholesale - The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade of business is the consumer or end user of the commodity.

Wind Energy System - A structure or place, such as a wind turbine, designed and constructed to generate power for distribution to off-site users. This definition shall not include private facilities with a single tower or turbine less than seventy-five (75) feet in height and not designed for distribution of power to off-site users.

Windbreak - Any non-opaque man-made structure constructed of any material and erected adjacent to an animal feeding, calving, or other such lot of which its principal use is that of protecting livestock from the effects of the wind.

Yard - An open space at grade, other than a court or plaza, between a structure and the adjacent lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

Yard, Front - An open, unoccupied space on a lot facing a street and extending across the front of the lot between the side lot lines. Measured from the road right-of-way to the structure.

Yard, Rear - An open, unoccupied space extending across the rear of a lot from one side lot line to the other side lot line.

Yard, Side - An open, unoccupied space on the same lot with a building situated between the building and sideline of the lot and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a sideline.

Zone - An area within which, in accordance with the provisions of this Ordinance, certain uses of lands, buildings and structures are permitted and certain others are prohibited, where yards and other open

spaces are required, where lot areas, building height limits and other requirements are established, all of the foregoing being identical for the zone and district in which they apply.

Zoning Administrator - An official of Gregory County appointed by the Chairman and confirmed by the County Commission, charged with the responsibility of administrating this ordinance.

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ARTICLE 1

JURISDICTION

Section 101 General

This Ordinance shall be known and shall be cited and referred to as "The Zoning Ordinance of Gregory County, South Dakota", to the same effect as if the full title were stated.

Section 103 Jurisdiction

The provisions of this Ordinance shall apply within the unincorporated areas of Gregory County, South Dakota, excluding the incorporated communities of Bonesteel, Burke, Dallas, Gregory, Fairfax, and Herrick, as established on the map entitled "*The Official Zoning Map of Gregory County, South Dakota*".

Section 105 Provisions of this Ordinance Declared to the Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a greater width or size of yards, courts or other spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required, in any other Ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance require a greater width or size of yards, courts, or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such Ordinance shall govern.

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ARTICLE 2

APPLICATION OF DISTRICT REGULATIONS

Section 201 General

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

Section 203 Zoning Affects Every Building and Use

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

Section 205 Performance Standards

No building or other structure shall hereafter be erected or altered, without obtaining a permit, to:

1. Accommodate or house a greater number of families;
2. Occupy a greater area of the lot; or
3. Have narrower or smaller rear yards, front yards, side yards, or other open spaces.

Section 207 Yard and Lot Reduction Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

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ARTICLE 3

ESTABLISHMENT OF DISTRICTS

Section 301 Districts Created

For the purpose of this Ordinance, there are hereby created seven (7) types of districts by which the jurisdictional area defined in Section 103 shall be divided.

- AG - Agricultural
- R1 - Low Density Rural Residential
- R2 - Medium Density Rural Residential
- R3 - High Density Rural Residential
- R4 - Platted Town Site Residential
- RC - Rural Commercial
- PUD - Planned Unit Development

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ARTICLE 4

OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION

Section 401 General

The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the County Commissioners, attested by the Auditor, and bearing the seal of the County, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 401 of Ordinance No. _____ of Gregory County, South Dakota," together with the date of the adoption of this Ordinance.

Section 403 Zoning Map Changes

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Commissioners, with an entry on the Official Zoning Map as follows: "on [date], by official action of the Gregory County Commission, the following [change] changes were made in the Official Zoning Map: [brief description of nature of change]," which entry shall be signed by the Chairman of the Commission and attested by the Auditor. No amendment to this Ordinance which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this Ordinance.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 2003.

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

Section 405 Zoning Map Replacement

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

The new Official Zoning Map shall be identified by the signature of the Chairman of the County Commission, attested by the Auditor, and bearing the seal of the County, under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as part of Ordinance No. _____ of Gregory County, South Dakota."

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

Section 407 Rules for Interpretation of District Boundaries

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

1. Boundaries indicated, as approximately following the centerlines of streets, roads, highways, or alleys shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated, as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated, as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map; and
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Planning Commission shall interpret the district boundaries.

ARTICLE 5

AGRICULTURAL DISTRICTS (AG)

Section 501 Intent

The intent of Agricultural Districts (AG) is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment should be continued and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

Section 503 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in an Agricultural District (AG):

1. Agriculture;
2. Farms;
3. Ranches;
4. Orchards;
5. Farm occupations;
6. Farm buildings;
7. Farm drainage systems;
8. Irrigation systems;
9. Utility facilities;
10. Manufactured homes, pursuant to Section 1207;
11. Historic sites;
12. Veterinary services;
13. Signs, on-site;
14. Cemeteries;
15. Dwellings, single-family;
16. Shelterbelts;
17. Stock dams;

18. Riding stables;
19. Rodeo arenas;
20. Wildlife blinds; and
21. Signs, exterior off-site, pursuant to Section 1213.

Section 505 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in an Agricultural District (AG):

1. Roadside stands;
2. Home and farm occupations;
3. Accessory Agricultural Structures;
4. Accessory Buildings; and
5. Those accessory uses, not specifically regulated by ordinance and structures customarily incidental to permitted uses and structures when established within the space limits of this district.

Section 507 Conditional Uses

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in an Agricultural District (AG):

1. Dwellings, additional farm;
2. Airports;
3. Open sales areas;
4. Bars;
5. Fairgrounds;
6. Exhibition areas;
7. Amusement parks;
8. Motor vehicle tracks or play areas;
9. Golf courses;
10. Stadiums and athletic fields;

11. Swimming pools;
12. Agricultural product processing facilities;
13. Grain elevators;
14. Municipal or commercial sewage disposal and/or treatment sites;
15. Truck or equipment terminals;
16. Sale and auction barns;
17. Private recreation areas;
18. Repair shops, motor vehicle;
19. Repair shops, auto-body;
20. Sanitary landfills or restricted use sites;
21. Wildlife and game production areas;
22. Fireworks stands;
23. Quarries, pursuant to Section 1211;
24. Animal Feeding Operations, Classes A and B, pursuant to Section 519
25. Buying stations;
26. Agricultural, fertilizer, and chemical sales and applications;
27. Salvage yards;
28. Junkyards;
29. Bed and breakfast operations;
30. Parks;
31. Game farms;
32. Aquaculture;
33. Shooting ranges;
34. Private shooting preserves;
35. Game lodges;

36. Schools, public;
37. Schools, denominational or private;
38. Day care centers;
39. Kennels;
40. Campgrounds;
41. Churches;
42. Remote fuel depots or keytrolls;
43. Bait and tackle shops;
44. Asphalt plants;
45. Lumber yards;
46. Warehousing;
47. Concrete plants;
48. Spreading, injection, or other application of manure or animal waste generated by an Animal Feeding Operation pursuant to Section 519(9)(10);
49. Retail sales;
50. Manufacturing;
51. Horticulture;
52. Convenience Stores;
53. Truck Washes;
54. Towers;
55. Wind Energy Systems;
56. Mobile Homes;
57. Solar Energy Systems; and
58. Lockers.

Section 509 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 511 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 509 shall be prohibited.

Section 513 Minimum Lot Requirements

1. The minimum lot area shall be forty (40) acres;
2. The minimum lot width shall be five hundred (500) feet;
3. The Board of Adjustment may allow a smaller minimum lot requirement where a permit for a single-family home is requested on an existing farmstead site;
4. Additional dwelling units may be allowed if they are to be occupied by other members of the family farm unit, the Board of Adjustment may reduce the required area following the procedures of a conditional use; and
5. The Zoning Administrator may allow a smaller lot requirement where a request for a smaller lot is presented which includes an existing farmstead as defined herein. Upon approval of said request the owner shall cause the recording of an Agricultural use Covenant upon the deed.

Section 515 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of seventy-five (75) feet;
2. There shall be a rear yard of not less than a depth of twenty-five (25) feet; and
3. There shall be two (2) side yards, each of which shall not be less than twenty-five (25) feet.

Section 517 Prohibition of View - Obstruction

The intent of this Section is to keep the right-of-ways free and clear of snow build-up and to promote traffic safety along road right-of-ways and intersections.

There shall be no obstructions, such as buildings, structures, grain bins, trees, wind breaks, or other objects within one hundred fifty (150) feet from the centerline of the road on the North and West sides and seventy-five (75) feet from the centerline of the road on the South and East sides.

Section 519 Animal Feeding Operation Performance Standards

Animal Feeding Operations are considered conditional uses and shall comply with the Conditional Use process, all applicable State and Federal requirements, and the applicable requirements as defined in this section:

- A. Class A Section 519 (1,2,3,4,5(a),6,7,8,9,10)
- B. Class B Section 519 (1,2,3,4,5(b),6,7,8,9,10)
 - 1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources.
 - 2. Prior to construction, such facilities shall obtain a Storm Water Permit for Construction Activities from the South Dakota Department of Environment and Natural Resources. The Storm Water Pollution Prevention Plan required by the permit must be developed and implemented upon the start of construction.
 - 3. Animal confinement and waste facilities shall comply with the following facility setback requirements:

A.	Public Wells	1,000 feet
B.	Private Wells	250 feet
C.	Private Wells (Operator's)	150 feet
D.	Lakes, Rivers, Streams Classified as a Drinking Water Supply	1,000 feet
E.	Lakes, Rivers, Streams Classified as Fisheries	1,000feet
F.	Designated 100 Year Flood Plain	Prohibited
 - 4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification. Examples of such management shall include at least:
 - A. Proposed maintenance of holding ponds;
 - B. Land application process and/or methods; and

C. Legal description and map, including documented proof of area to be utilized for nutrient application.

5. Animal Feeding Operation Confinement and Waste Facilities shall be sited no closer than the following regulations prescribe from any incorporated municipality or rural residential district:

- | | | |
|----|------------------------------|---------|
| A. | 2,000 Animal Units and above | 3Miles |
| B. | 1,000 - 1,999 Animal Units | 2 Miles |

6. Animal Feeding Operation Confinement and Waste Facilities shall be sited no closer than the following regulations prescribe from any church, school, commercially zoned area, or residential dwelling, one dwelling unit is allowed on the facility site.

- | | | |
|----|------------------------------|--------|
| A. | 2,000 Animal Units and above | 2Miles |
| B. | 1,000 - 1,999 Animal Units | 1Mile |

The owner of a residential dwelling may request the Board of Adjustment to review the facility and the Board may, by variance, waive or decrease the required separation distance. An easement must then be recorded with the County Register of Deeds in order that any future owners can be informed.

The County reserves the right to waive the aforementioned approval and signature requirements for any church, school, commercially zoned area, or residential dwelling within the prescribed setbacks. These powers shall be limited to when, in the Planning Commission's and/or Board of Adjustment's opinion, the failure or inability to obtain approval is not directly related to the real or perceived impacts of the proposed operation.

All applicants for an Animal Feeding Operation conditional use permit must notify the owners of all property, abutting the proposed project. The required notification shall extend to those lands in which the applicant has no ownership interest.

7. Animal waste shall be transported no further than five (5) miles from the point of origination for land application.

8. Animal Feeding Operations shall prepare a facility management plan. The plan shall be designed to dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. The County Board of Adjustment will review the

need for control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors should be considered in a management control plan:

- A. Operational plans for manure collection, storage treatment and use must be kept updated and implemented;
- B. Methods to be utilized to dispose of dead animals should be included in the management plan;
- C. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds, and/or lagoons;
- D. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized;
- E. Store solid manure in containment areas having good drainage to minimize odor production;
- F. Remove manure from open pens as frequently as possible to minimize odor production;
- G. Should use scientifically proven odor reduction covers on open storage systems for liquid manure systems to reduce odor production;
- H. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities; and
- I. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.

9 Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is immediately incorporated or injected:

- | | |
|---|------------|
| A. Public Wells | 500 feet |
| B. Private Wells | 500 feet |
| C. Private Wells (Operator's) | 150 feet |
| D. Lakes, Rivers, Streams Classified as a Drinking Water Supply | 1,000 feet |
| E. Lakes, Rivers and Streams Classified as Fisheries | 1,000 feet |
| F. All Public Road Right-of-Ways | 10 feet |

- G. Incorporated Communities or Residential Districts 1,000 feet
 - H. A Residence other than the Operators 1,000 feet
- 10 Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is irrigated or surface applied:
- A. Public Wells 1,000 feet
 - B. Private Wells 300 feet
 - C. Private Wells (Operator's) 100 feet
 - D. Lakes, Rivers, Streams Classified as a Drinking Water Supply 2,000 feet
 - E. Lakes, Rivers and Streams Classified as Fisheries 2,000 feet
 - F. All Public Road Right-of-Ways (Surface Applied) 20 feet
 - G. All Public Road Right-of-Ways (Irrigated Application) 40 feet
 - H. Incorporated Communities or Residential Districts (Surface Applied) 2,000 feet
 - I. Incorporated Communities or Residential Districts (Irrigated Application) 4,000 feet
 - J. A Residence other than the Operators (Surface Applied) 2,000 feet
 - K. A Residence other than the Operators (Irrigated Application) 4,000 feet

ARTICLE 6

LOW DENSITY RURAL RESIDENTIAL DISTRICT (R1)

Section 601 Intent

The intent of Low Density Rural Residential Districts (R1) is to provide for residential uses of large lots and other compatible uses in a pleasant and stable environment.

Section 603 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Low Density Rural Residential District (R1):

1. Dwellings, single-family;
2. Manufactured homes, pursuant to Section 1207;
3. Modular homes;
4. Horticulture;
5. Utility facilities; and
6. Governmental services.

Section 605 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Low Density Rural Residential District (R1):

1. Home occupations;
2. Accessory buildings, 2400 square feet or less; and
3. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

Section 607 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Low Density Rural Residential District (R1):

1. Manufactured home parks, pursuant to Section 1209;
2. Churches;
3. Schools, public;

4. Schools, denominational and private;
5. Day care centers;
6. Parks;
7. Cemeteries;
8. Golf courses; and
9. Hobby farms.

Section 609 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 611 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 609 shall be prohibited.

Section 613 Minimum Lot Requirements

1. The minimum lot area shall be fifteen (15) acres; and
2. The minimum lot width shall be five hundred (500) feet.

Section 615 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of one hundred (100) feet;
2. There shall be a rear yard of not less than a depth of one hundred (100) feet; and
3. Each side yard shall not be less than fifty (50) feet.

ARTICLE 7

MEDIUM DENSITY RURAL RESIDENTIAL DISTRICT (R2)

Section 701 Intent

The intent of Medium Density Rural Residential Districts (R2) is to provide for residential uses of medium lots and other compatible uses in a pleasant and stable environment.

Section 703 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Medium Density Rural Residential District (R2):

1. Dwellings, single-family;
2. Modular homes;
3. Manufactured homes, pursuant to Section 1207;
4. Horticulture;
5. Utility facilities; and
6. Governmental services.

Section 705 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Medium Density Rural Residential District (R2):

1. Home occupations;
2. Accessory Buildings, 1,500 square feet or less; and
3. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

Section 707 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Medium Density Rural Residential District (R2):

1. Dwellings, two family;
2. Manufactured home parks, pursuant to Section 1209;
3. Convenience stores;

4. Golf courses;
5. Hobby farms;
6. Churches;
7. Schools, public;
8. Schools, denominational and private;
9. Parks;
10. Cemeteries; and
11. Day care centers.

Section 709 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 711 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 709 shall be prohibited.

Section 713 Minimum Lot Requirements

1. The minimum lot area shall be six (6) acres; and
2. The minimum lot width shall be two hundred (200) feet.

Section 715 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of one hundred (100) feet;
2. There shall be a rear yard of not less than a depth of one hundred (100) feet; and
3. Each side yard shall not be less than fifty (50) feet.

ARTICLE 8

HIGH DENSITY RURAL RESIDENTIAL DISTRICT (R3)

Section 801 Intent

The intent of High Density Rural Residential Districts (R3) is to provide for residential uses of small lots and other compatible uses in a pleasant and stable environment.

Section 803 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a High Density Rural Residential District (R3):

1. Dwellings, single-family;
2. Modular homes;
3. Manufactured homes, pursuant to Section 1207;
4. Horticulture; and
5. Governmental services.

Section 805 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a High Density Rural Residential District (R3):

1. Home occupations;
2. Accessory Buildings, 1,200 square feet or less; and
3. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

Section 807 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a High Density Rural Residential District (R3):

1. Convenience stores;
2. Dwellings, two family;
3. Dwellings, multi-family;
4. Manufactured home parks, pursuant to Section 1209;

5. Churches;
6. Schools, public;
7. Schools, denominational and private;
8. Parks;
9. Day care centers;
10. Utility facilities; and
11. Nursing, congregate care, and residential care facilities.

Section 809 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 811 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 809 shall be prohibited.

Section 813 Minimum Lot Requirements

1. The minimum lot area shall be two and one-half (2 ½) acres;
2. The minimum lot area for multi-family dwellings in areas of two (2) units shall be two and one-half (2 ½) acres and an additional ten thousand (10,000) square feet for each unit in excess of the first two (2); and
3. The minimum lot width shall be one hundred (100) feet.

Section 815 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of seventy-five (75) feet;
2. There shall be a rear yard of not less than a depth of fifty (50) feet; and
3. Each side yard shall not be less than twenty-five (25) feet.

ARTICLE 9

PLATTED TOWN SITE RESIDENTIAL DISTRICT (R4)

Section 901 Intent

The intent of Platted Town Site Districts (R4) is to provide for residential uses of currently platted town sites, such as Dixon, Lucas, and St. Charles, and other compatible uses in a pleasant and stable environment.

Section 903 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Platted Town Site District (R4):

1. Dwellings, single-family;
2. Dwellings, two-family;
3. Dwellings, multi-family;
4. Manufactured homes, pursuant to Section 1207;
5. Modular homes;
6. Horticulture;
7. Churches;
8. Schools, public;
9. Schools, denominational and private;
10. Parks;
11. Cemeteries;
12. Utility facilities;
13. Nursing, congregate care, and residential care facilities;
14. Hospitals;
15. Clinics;
16. Governmental services;
17. Game lodges;

18. Day care centers; and
19. Agriculture.

Section 905 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Platted Town Site District (R4):

1. Home and farm occupations; and
2. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

Section 907 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Platted Town Site District (R4):

1. Convenience stores;
2. Manufactured home parks, pursuant to Section 1209;
3. Golf courses;
4. Fairgrounds;
5. Exhibition areas;
6. Rodeo arenas;
7. Riding stables;
8. Campgrounds;
9. Hobby farms;
10. Retail sales;
11. Repair shops, motor vehicle; and
12. Repair shops, auto-body.

Section 909 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 911 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 909 shall be prohibited.

Section 913 Minimum Lot Requirements

1. The minimum lot area shall be seven thousand five hundred (7,500) square feet;
2. The minimum lot width shall be fifty (50) feet; and
3. The minimum lot depth shall be one hundred (100) feet.

Section 915 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of twenty-five (25) feet;
2. There shall be a rear yard of not less than a depth of twenty-five (25) feet; and
3. Each side yard shall not be less than six (6) feet.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 10

RURAL COMMERCIAL DISTRICT (RC)

Section 1001 Intent

The intent of the Rural Commercial District (RC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to a major vehicular circulation route due to the nature of the merchandise handled and the display space required, particularly items requiring expansive display area such as motor vehicles, trailers, and farm implements; the method of transport required of the purchaser for the merchandise handled, particularly goods customarily traded in bulk such as lumber or feed requiring access for the customer to the sales area; primary dependence upon vehicular, as opposed to pedestrian, access such as drive-in facilities and all types of automotive and farm implement services; or the clientele toward which the establishments are primarily oriented.

Section 1003 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Rural Commercial District (RC):

1. Retail sales;
2. Wholesale sales;
3. Agricultural, fertilizer, and chemical sales and applications;
4. Sale and auction barns;
5. Buying stations;
6. Grain elevators;
7. Funeral homes;
8. Self-storage warehouses;
9. Warehousing;
10. Repair shops, motor vehicle;
11. Repair shops, auto-body;
12. Veterinary services;
13. Construction services;
14. Concrete plants;
15. Garage, public;

16. Truck or equipment terminals;
17. Historic sites;
18. Arcades;
19. Parks;
20. Financial institutions;
21. Service establishments;
22. Motor vehicle tracks or play areas;
23. Theaters;
24. Stadiums and athletic fields;
25. Fairgrounds;
26. Golf courses;
27. Swimming pools;
28. Utility facilities;
29. Gasoline stations;
30. Motels;
31. Hotels;
32. Signs, on-site;
33. Day care centers;
34. Manufacturing; and
35. Signs, exterior off-site, pursuant to Section 1213.

Section 1005 Permitted Accessory Uses and Structures

Those accessory uses and structures normally appurtenant to the permitted principal uses and structures shall be permitted in a Rural Commercial District (RC) when established in conformance within the space limits of this district.

Section 1007 Conditional Uses

After the provisions of this resolution relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Rural Commercial District (RC):

1. Campgrounds;
2. Any facility engaged in the manufacture, wholesale distribution, retail sale or storage of flammable or combustible liquids, or hazardous material;
3. Asphalt plants;
4. Tank farms; and
5. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district.

Section 1009 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 1011 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1009 shall be prohibited.

Section 1013 Minimum Lot Requirements

1. The minimum lot area shall be one (1) acre; and
2. The minimum lot width shall be one hundred and fifty (150) feet.

Section 1015 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of seventy-five (75) feet;
2. There shall be a rear yard of not less than a depth of fifty (50) feet; and
3. Each side yard shall be not less than twenty-five (25) feet.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 11

PLANNED UNIT DEVELOPMENT (PUD)

Section 1101 Intent

The provisions of this article are to be applied in instances where tracts of land of considerable size are developed, redeveloped or renewed as integrated and harmonious units, and where the overall design of such units is so outstanding as to warrant modification of the standards contained elsewhere in this Ordinance. A planned development, to be eligible under this Article, must be:

1. In accordance with the comprehensive plans of the county, including all plans for redevelopment and renewal;
2. Composed of such uses, and in such proportions, as are most appropriate and necessary for the integrated functioning of the planned development and for the county;
3. So designed in its space allocation, orientation, texture, materials, landscaping and other features as to produce an environment of stable and desirable character, complementing the design and values of the surrounding neighborhood, and showing such unusual merit as to reflect credit upon the developer and upon the county; and
4. A minimum of five (5) acres in land area.

Section 1103 Application Procedure

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit to the County Planning Commission a site plan for the proposed planned unit development. The plan shall indicate:
 - A. The location and extent of the proposed planned unit development, including its relationship to surrounding properties;
 - B. The exact nature and extent of improvements to be developed or erected upon the tract, including contoured site plans, building plans and elevations, and plans for landscaping and paved areas, transportation patterns, and water and sewer services; and
 - C. Such other information as may be required by the County Planning Commission to determine if the proposed planned unit development is consistent with the intent of the district.
2. The County Planning Commission shall, within sixty (60) days of receiving the plan for the proposed planned unit development, consider such plan at a minimum of one regular County Planning Commission meeting. Upon consideration, the County Planning Commission shall inform the applicant in writing of its approval or denial

of the plan. In the event of denial, the Commission shall inform the applicant of the reason(s) for denial, including any recommended modifications in the plan, which would cause the Commission to reconsider.

3. Upon approval of the plan by the County Planning Commission, it shall forward its written recommendations to the Board of County Commissioners along with a copy of the approved plan, that the tract be designated a Planned Unit Development (PUD) by amendment of the Official Zoning Map.
4. Upon receiving the County Planning Commissioner's written recommendation, the Board of County Commissioners shall consider the amendment of the Official Zoning Map as provided elsewhere in this Title.
5. Following the amendment of the Official Zoning Map by the Board of County Commissioners, the County Zoning Administrator may, upon proper application, issue a building permit for construction of the planned unit development in accordance with the approved plan.

Section 1105 Subsequent Performance

Following issuance of a building permit for the planned unit development by the Zoning Administrator, the applicant shall begin construction within a period of six (6) months. Failure to do so shall invalidate the building permit. Construction shall follow precisely the plan approved by the County Planning Commission to which modifications may be granted only by the County Planning Commission upon the filing of an amended plan. Failure to follow the approved plan on the part of the applicant or their agent shall be considered a violation of this Ordinance punishable as herein prescribed.

ARTICLE 12

SUPPLEMENTARY DISTRICT REGULATIONS

Section 1201 Accessory Buildings

No accessory building shall be erected in any required yard area and no separate accessory building shall be erected within five (5) feet of any other building.

Section 1203 Erection of More than One Principal Structure on a Lot

In any district, more than one structure, housing a permitted or permissible principal use, may be erected on a single lot, provided, that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

Section 1205 Manufactured Homes

No manufactured homes shall be parked and occupied in any district for more than forty-eight (48) hours, except upon a special permit issued by the Zoning Administrator. Such permit shall be issued for a period not to exceed thirty (30) days and shall not be renewable within the same calendar year. Provided, however, a permit may be issued for parking and occupying a manufactured home on land owned by the occupant or occupants, during the construction of a house thereon or for a period not exceeding one hundred eighty (180) days and which shall be renewable for an additional period not exceeding one hundred eighty (180) days. However, if material progress with house construction is not made within forty-five (45) days from the issuance of a permit, or if construction work ceases for a consecutive period of forty-five (45) days, said permit shall become void. This Section shall not be applicable when a manufactured home is used for agricultural-related (non-human habitation) purposes.

Section 1207 Manufactured Home Performance Standards

Manufactured homes placed within Gregory County shall comply with the following requirements:

1. The roof shall be covered with conventional roofing products;
2. The pitch of the main roof shall be not less than three (3) inches of rise for each twelve (12) inches of horizontal run;
3. The exterior walls shall be encased with conventional house siding; flat or corrugated sheet metal is prohibited;
4. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than fourteen (14) feet, as measured across the narrowest portion;
5. The manufactured home shall be skirted with a material which is not highly combustible and installed around the perimeter of the home from the bottom of the home to the ground;

6. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design; and
7. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards.

Nothing contained in this Regulation shall prevent a permanent manufactured home from being placed on an established farmstead, to be used as a secondary residence, so long as it is connected to the existing farm operation on non-deeded land.

Section 1209 Manufactured Home Parks

A manufactured home park may be established in specified districts according to the procedures for granting a Conditional Use, provided, that the proposed manufactured home park meets all the following requirements:

1. No manufactured home park lot or office or service building shall be closer to a street right-of-way or other property line than seventy-five (75) feet;
2. The margins along the side and rear property lines shall be densely planted to coniferous or cedar trees for a depth of not less than twenty-five (25) feet and shall be properly landscaped;
3. Individual manufactured home lots shall have an area of not less than eight thousand (8,000) square feet and the total number of lots per gross acre shall not exceed five (5);
4. A minimum of twenty-five (25) feet measured from any entrance, lean to or other extension from said manufactured home shall be maintained between manufactured homes;
5. A request for a Conditional Use shall set forth the location and legal description of the proposed manufactured home park property, and a sketch of the proposed manufactured home park, showing dimensions, driveways, proposed locations of manufactured homes, the location of sanitary conveniences, and other buildings and improvements; and
6. Certification of compliance with all resolutions, ordinances, and regulations, regarding manufactured park licensing, and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations shall be a prior requirement for granting said Conditional Use.

Section 1211 Quarries and/or Mining

All mining activity shall be conducted in accordance with SDCL 45-6.

Section 1213 Off-Site Signs

Off-site signs may be established in all Districts as permitted uses according to the provisions set forth in this Section, SDCL 31-29, and ARSD 70:04:03. Building permit(s) must be obtained prior to placing or installing signs:

1. Sign(s) or sign structure(s) shall not exceed thirty (30) feet in height and sixty (60) feet in width;
2. The sign face(s) shall not exceed six hundred (600) square feet per site and direction of viewing;
3. A sign structure shall not be sited within a three hundred (300) foot radius of any other off-site sign intended to be read from the same road rights-of- way;
4. A sign shall not be within a three hundred (300) foot radius of any other off-site sign intended to be read from a different road right-of-way;
5. No sign shall utilize blinking, revolving, or flashing lights;
6. No part of the sign structure or face shall be located in or intrude into a required yard or public road right-of-way; and
7. The light from illuminated signs shall be shielded or directed to avoid adverse affect on surrounding premises or the vision of motor vehicle operators traveling public roads.

Section 1215 Off-site Sign Exemptions

The following off-site signs shall be exempt from the location provisions contained herein upon obtaining a building permit:

1. Personal or nonprofit directional or address signs thirty-two (32) square feet or less in area per side;
2. On-site signs or signs placed on property owned by and adjacent to the advertised business; and
3. Political campaign signs provided the signs are removed within five (5) days after the election.
4. Promotional signs, approved by the Zoning Administrator, thirty-two (32) square feet or less in area per side; and
5. For sale signs, thirty-two (32) square feet or less in area per side.

Section 1217 Prohibited Signs

The following signs shall be prohibited:

1. Vehicle or trailer signs which display advertising to the public right-of-way; and
2. Signs that imitate an official traffic sign or are of a size, location, movement content, coloring or manner of illumination that may be confused as a traffic control device or which may conceal any traffic control device or directional sign.

Section 1219 Maintenance and Removal

All off-site signs shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be renovated or removed within sixty (60) days of written notice. If the owner of said sign fails to comply with the written order the County may remove such sign at the owner's expense.

Section 1220 Tiling and Drainage Performance Standards

1. Applicant must clearly document the proposed drainage project's outlet from the applicant's property. Documentation shall include USGS, FSA or similar exhibits which clearly illustrate the proposed projects location and outlet.
2. If the proposed drainage project outlets directly into a permanent or intermittent stream defined herein all landowners for at least 1/2 mile above and 1 mile below the proposed outlet must sign a waiver stating that they have no objection to the construction of the proposed drainage project.
3. If the proposed drainage project does not outlet into a permanent or intermittent stream defined herein all landowners for at least 1 mile above and 2 miles below the proposed outlet must sign a waiver stating that they have no objection to the construction of the proposed drainage project.
4. If the proposed drainage project outlets directly or indirectly into a public or private road right-of-way the township supervisor and/or county highway superintendent must grant approval, in writing, to drain into the right-of-way and all downstream landowners for at least 1/2 mile above and 1 mile below the proposed outlet must sign a waiver stating that they have no objection to the construction of the proposed drainage project.

ARTICLE 13

NONCONFORMANCE

Section 1301 General

Within the districts established by this Ordinance or amendments that may later be adopted, there exists (a) lots, (b) structures, (c) uses of land and structures, and (d) characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment; it is the intent to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this revised Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 1303 Nonconforming Lots of Record

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

Variance of other yard requirements shall be obtained only through action of the Planning Commission.

Section 1305 Nonconforming Uses of Land (or Land with Minor Structures Only)

Where at the time of passage of this revised Ordinance lawful use of land exists, which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding one thousand (1,000) dollars, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases, for any reason, for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
4. No additional structure, not conforming to the requirement of this Ordinance, shall be erected in connection with such nonconforming use of land.

Section 1307 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance, that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in any way, which increases its nonconformity, but any structure, or portion thereof, may be altered to decrease its nonconformity;
2. Should such nonconforming structure, or nonconforming portion of structure, be destroyed by any means, to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance; and
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 1309 Nonconforming Uses of Structures or of Structures and Premises in Combination

If the nonconforming use involving individual structures with a replacement cost of one thousand (1,000) dollars or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the nonconforming use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

2. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structure and premises may, as a conditional use, be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance;
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of more than one (1) year (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 1311 Uses Under Conditional Use Provisions are Conforming Uses

Any use which is permitted as a conditional use in a district, under the terms of this Ordinance, shall be deemed a conforming use in such district without further action. A nonconforming use can never be allowed in a defined district without a change in the district definition or boundaries.

Permitted Principal Uses	Conditional Uses	Nonconforming
Allowed within defined district.	Allowed within defined district AFTER Board grants permission.	Never allowed within defined district without change in district definitions or boundaries.

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ARTICLE 14

ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

Section 1401 Gregory County Zoning Administrator

An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Gregory County Commission shall administer and enforce this ordinance. They may be provided with the assistance of such other persons as the County Commission may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, they shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. They shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by the Ordinance to insure compliance with or to prevent violation to its provisions. The Zoning Administrator shall report all actions to the Planning Commission and County Commission at the next general meeting of each.

Section 1403 Right of Entry

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

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

Section 1405 Gregory County Planning Commission

The Gregory County Commission shall appoint a Planning Commission, as provided in SDCL 11-2-2. The County Planning Commission shall consist of an odd number of members, including at least one (1) county commissioner. The term of each of the appointed members of the County Planning Commission shall be for three (3) years; provided, that when the Planning Commission is first appointed, the lengths of the terms shall be varied so that no more than two (2) of the terms shall expire in the same year. Any appointed member of the County Planning Commission may be removed for cause, after hearing prior to the expiration of their term by a majority vote of the elected members of the Board of County

Commissioners. Administrative officials of the county may be appointed as ex officio members of the commission. All meetings shall be open to the public, except as provided by SDCL 1-25-5.

Upon notification of a request for an appeal, variance or conditional use or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 1603 (3-5). Any person may appear and request or protest the proposed change. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

The Planning Commission shall review all applications for amendments or rezones at an official public hearing of the Commission. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommendation. The Commission shall forward its recommendation to the County Commission at least ten (10) days in advance of the County Commission meeting at which the application is being considered.

The Planning Commission shall adopt rules necessary for the conduct of its affairs and keeping with the provisions of this Ordinance including the selection of a Chairperson and Vice-Chairperson. The term of the Chairman and Vice-Chairman shall be for one (1) year. The Planning Commission shall keep a record of all proceedings. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine, but in no event, shall the Commission meet less than once (1) every three (3) months. The Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission shall adopt from time to time, additional regulations, as it may deem necessary to carry appropriate provisions of this Ordinance into effect.

Section 1407 Gregory County Board of Adjustment

The Gregory County Commission shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all requests for variances, conditional uses and zoning appeals. The Board of Adjustment may, in specific cases to avoid unwarranted hardship which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, make upon an affirmative vote of two-thirds (2/3) of the full membership of the Board of Adjustment, conditional uses or grant variances to the terms of this ordinance.

Upon notification of a request for an appeal, variance or conditional use or any part thereof the Board of Adjustment shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 1603 (3-5). Any person may appear and request or protest the proposed change. The Board shall discuss the application and formulate a decision. The decision should be in the form of a motion clearly stating the Board's decision and the reasons supporting said decision. All requests shall be in accordance with Article 16. Appeals of a Board decision shall be done pursuant to Section 1703.

The Zoning Administrator shall act, as secretary to the Board of Adjustment when acting in zoning cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning cases shall be held at the call of the Chairperson and at such other times, as the Board shall determine. Such Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

All meetings of the Board of Adjustment shall be open to the public. Those meetings designated as public hearings shall allow for testimony from all interested parties. The Board, acting in zoning cases, shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the County Auditor and shall be a public record.

Section 1409 Gregory County Commission

The County Commission may amend, supplement, change, modify, or repeal any regulation, restriction, boundary, or enforcement provision established in the zoning ordinance or adjuncts thereto. The County Commission shall forward a copy of the proposed changes to the Planning Commission for public review. Upon receipt of the comments from the Planning Commission the County Commission shall provide a notice of public hearing pursuant to Section 1901 (1-3). The County Commission shall thereafter either adopt or reject such amendment, supplement, change, modification, or repeal. If adopted the County Commission shall direct the Planning Commission to prepare a summary of the action. Upon completion of the summary the states attorney shall review the same and direct the County Auditor to have said summary published once in a legal newspaper of the municipality and take effect on the twentieth day after its publication.

Section 1411 Building Permits Required

No building or other structure shall be erected, moved, added to, or use changed without a permit issued by the Zoning Administrator. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance unless they received a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this Ordinance.

Exceptions to building permits shall be:

1. Concrete slabs on grade;
2. Fences, agricultural;
3. Corrals;
4. Semi-portable agricultural structures;
5. Windbreaks, pursuant to Section 517; and
6. Wildlife Blinds.

Section 1413 Application for Building Permit

All applications for building permits, conditional uses and variances must be signed or approved in writing by the owner of record. In the event the owner of record has a binding purchase agreement contingent on the approval of the building permit, conditional use or variance the potential purchaser may submit and sign all documents required for application. The signatory of all permit applications shall be the applicant of record and is solely responsible for all matters regarding said permit to include modification, withdrawal, or any similar actions. All applications for building permits shall be accompanied by a site plan.

The site development plan shall be drawn to scale and indicate the following:

1. Location and topography of the proposed structure(s), including adjacent property owners and proximity to federal, state highways, and to county, township or city roads;
2. A north arrow;
3. The actual dimensions and shape of the lot to be built upon;
4. The exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration;
5. Property lines and square footage of the proposed structure(s);
6. Location and dimensions of all easements and right-of-ways;
7. General street and pedestrian walkway plan;
8. General utility and sewer plans with proximity and proposed connection to central or individual services; and
9. Site drainage plan and development impact on culverts, etc.

Refer to document entitled Site Plan Requirements for a detailed example of a site plan.

The application shall include such other information as may be lawfully required by the Zoning Administrator, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, rental units, or animal units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance. One (1) copy of the application shall be returned to the applicant by the Zoning Administrator after they shall have marked such copy either as approved or disapproved and attested to same by their signature on such copy.

If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The Zoning Administrator shall retain the original and one (1) copy of the application, similarly marked. The issuance of a building permit shall in no case be construed as waiving any provisions of this Ordinance.

Section 1415 Expiration of Building Permits, Conditional Uses and Variances

If the work described in any building permit, conditional use or variance has not begun within one hundred eighty (180) days or been completed within two (2) years from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a renewed permit has been obtained at no additional cost unless substantial changes have been made to the initial permit application.

Section 1417 Construction and Use to be as Provided in Application, Plans, Permits, and Application for Zoning Compliance

Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 2003 of this ordinance.

Section 1419 Schedule of Fees, Charges, and Expenses

The Gregory County Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for variances, conditional uses, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Gregory County Commission. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1421 Building Permit in a Conspicuous Place

All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction of work described.

Section 1423 Agricultural Use Covenant Required

All building permits for structures on less than forty acres of land or requests for rezoning of agricultural land shall be accompanied by an Agricultural Use Covenant as defined herein. Said covenant must be approved by the County Zoning Administrator and recorded in accordance with SDCL prior to issuance of the building permit or commencement of the rezoning process.

Section 1425 Bad Actor Legislation

The Gregory County Commission may reject an application for any permit filed for a variance, conditional use or otherwise for the reasons and on the grounds set forth in SDCL 1-40-27, as revised and amended. Such rejection shall be based upon a specific finding by the Commission that the applicant has engaged in the activity identified in the aforesaid statute. The burden on the Commission to make the specific finding provided for herein shall be by a preponderance of the evidence.

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ARTICLE 15

PLANNING COMMISSION

Section 1501 Powers and Duties

The Planning Commission shall have the power to hear requests for conditional uses, variances, amendments, change in zones and appeals of a decision rendered by the Zoning Administrator or other official.

Section 1503 Appeals

Any decision rendered by the Zoning Administrator may be appealed to the Planning Commission. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Planning Commission, that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the County Commission or by a court of record on application or notice to the officer for whom the appeal is taken and on due cause shown. The County, appellant, and Planning Commission shall act upon appeals pursuant to Section 1603.

Section 1505 Conditional Uses

The Planning Commission shall have the power to hear and make recommendations, in accordance with the provisions of this Ordinance, to decide such questions as are involved in determining whether conditional uses should be recommended for approval; and to recommend for approval conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to recommend denial on conditional uses when not in harmony with the purpose and intent of this Ordinance. The Commission shall not review a conditional use request unless and until all documents required for said use have been satisfactorily completed and all required fees have been paid in full.

The Planning Commission shall review all conditional use applications at an official public hearing of the Commission. Notice of the time and place of the hearing shall be given pursuant to Section 1603 (3-5). The Commission shall discuss each application in accordance with Section 1605 (6) and recommend an action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

Section 1507 Variances

The Planning Commission shall have the power to hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to recommend approval only in accordance with this ordinance. The Commission shall not review a variance unless and until all documents required for application for said request have been satisfactorily completed and all required fees have been paid in full.

The Planning Commission shall review all variance applications at an official public hearing of the Commission. Notice of the time and place of the hearing shall be given pursuant to Section 1603 (3-5). The Commission shall discuss each application in accordance with Section 1607 and recommend an action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 2003 of this Ordinance.

Under no circumstances shall the Planning Commission recommend approval of a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Section 1509 Amendments and Rezoning

The Planning Commission shall have the power to hear and make recommendations, in accordance with provisions of this Ordinance, on requests for change in zoning. Upon notification of a proposed revision, modification, change or amendment to the zoning ordinance or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 1901 (1-3). Any person may appear and request or protest the proposed change. The Commission shall not review an amendment for rezone unless and until all documents required for application for said request have been satisfactorily completed and all required fees have been paid in full.

The Planning Commission shall review all applications for amendments or rezones at an official public hearing of the Commission. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommendation. The Commission shall forward its recommendation to the County Commission at least ten (10) days in advance of the County Commission meeting at which the application is being considered.

In recommending approval of any petition for change in zone or amendment, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the change in zone is granted, shall be deemed a violation of this Ordinance and punishable under Section 2003 of this Ordinance.

ARTICLE 16

BOARD OF ADJUSTMENT

Section 1601 Powers and Duties

The Board of Adjustment shall have the power to hear requests for variances, conditional uses and appeals of a decision rendered by the Zoning Administrator or Planning Commission.

Section 1603 Appeals

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map. Prior to hearing an appeal the following requirements shall be completed.

1. The Planning Commission shall have reviewed the application pursuant to Section 1503 of this Ordinance;
2. The applicant or any other person aggrieved by the decision of the Zoning Administrator or Planning Commission shall file a written appeal with the Zoning Administrator within five working days of the decision;
3. The Zoning Administrator or Planning Commission secretary from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken;
4. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the county;
5. Written notice shall be sent to the appellant, applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the appeal is pending, if a particular piece of property is in question. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
6. A notification sign shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all the property's street frontage so as to be visible from the street. If a property does not have a street frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;
7. The Zoning Administrator or Planning Commission Chairperson shall present their decision to the Board of Adjustment for review; and

8. The Board of Adjustment shall uphold, overrule or amend the decision pending before the Board.

Section 1605 Conditional Uses

The Board of Adjustment shall have the power to hear and decide, in accordance with the provisions of this ordinance, requests for conditional uses or for decisions upon other special questions upon which the Board of Adjustment is authorized by this ordinance to pass; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this ordinance. Prior to hearing a request for a conditional use the following requirements shall be met.

1. The applicant shall specifically cite, within the application the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested;
2. The Planning Commission has reviewed the application pursuant to Section 1505 of this Ordinance;
3. Notice of public hearing shall be given, as in Section 1603 (3-5);
4. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, grant with conditions, or deny the conditional use, and that the granting of the conditional use will not adversely affect the public interest; and
6. Before any conditional use is issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - B. Off-street parking and loading areas where required; with particular attention to the items in (A) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district;
 - C. Refuse and service areas, with particular reference to the items in (A) and (B) above;

- D. Utilities, with reference to locations, availability, and compatibility;
- E. Screening and buffering with reference to type, dimensions, and character;
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- G. Required yards and other open spaces; and
- H. General compatibility with adjacent properties and other property in the district.

Section 1607 Variances

The Board of Adjustment shall have the power to hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to grant such variances only when the following provisions apply:

1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance.
3. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district.

4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
5. The Planning Commission has reviewed the application pursuant to Section 1507 of this Ordinance.
6. Notice of public hearing shall be given, as in Section 1603 (3-5).
7. The public hearing shall be held. Any party may appear in person or by agent or by attorney.
8. The Board of Adjustment shall make findings that the requirements of this Section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
9. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 2003 of this ordinance.
10. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

ARTICLE 17

COUNTY COMMISSION

Section 1701 Powers and Duties

The County Commission shall have the power to hear appeals, requests for rezoning and amendment of the Zoning Ordinance.

Section 1703 Change in Zone

The County Commission shall have the power to hear and decide, in accordance with provisions of this ordinance, petitions for change in zoning. A petition for change in zoning will not be decided until:

1. The individual petitioner provides a completed change in zone request. Said request must clearly state that special conditions and circumstances exist which require the land to be rezoned; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the change in zoning will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the area.
2. The Planning Commission has reviewed the application pursuant to Section 1509 of this Ordinance.
3. Notice of public hearing shall be given, as in Section 1901 (1-3).
4. The public hearing shall be held. Any party may appear in person or by agent or attorney.
5. The County Commission shall make findings that the requirements of this Section have been met by the applicant for a change in zone; the Board shall further make a finding that the reasons set forth in the application justify the granting of the change in zone, and the change in zone will make possible the reasonable use of the land, building, or structure; the County Commission shall further make a finding that the granting of the change in zone will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. No petition for change in zone shall be authorized unless the County Commission finds that the condition, situation or the intended use of the property concerned is not of so general or recurring a nature as to make reasonably practicable the change in zone.
7. Nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted or nonconforming use of lands, structures or buildings in other districts shall be considered as reasons for the issuance of a change in zone.

8. In granting any petition for change in zone, the County Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the change in zone is granted, shall be deemed a violation of this ordinance and punishable under Section 2003 of this ordinance.

ARTICLE 18

DUTIES ON MATTERS OF APPEAL

Section 1801 Duties of Zoning Administrator, Planning Commission, Board of Adjustment, County Commission and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, then the Planning Commission and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Planning Commission, and that recourse from the decisions of the Board of Adjustment shall be to the Court of Record.

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ARTICLE 19
AMENDMENTS

Section 1901 Regulations

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed, provided that such modification or repeal in each instance be proposed in an ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original ordinance.

Prior to consideration of amending, supplementing, changing, modifying or repealing this ordinance by the governing body, notice of public hearings shall be provided as follows:

1. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the county;
2. Written notice shall be sent to the appellant, applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the appeal is pending, if a particular piece of property is in question. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
3. A notification sign shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all the property's street frontage so as to be visible from the street. If a property does not have a street frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;
4. The Planning Commission shall hold the Public Hearing, review the proposed amendment(s) and make recommendations to the County Commission;
5. Notice of the time and place of the County Commission hearing shall be given pursuant to Section 1901 (1-3);
6. The County Commission shall hold the Public Hearing, review the proposed amendment(s) and by resolution or ordinance deny or pass the recommendations;
7. If the changes are adopted the Planning Commission shall prepare a complete copy of the changes;

8. Once the summary is prepared the States Attorney shall review the complete copy and forward the changes to the County Auditor for publishing; and
9. The changes must be published once in the County's legal newspaper(s). The changes will take effect 20 days after publication.

ARTICLE 20

VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES

Section 2001 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint with the Board of Adjustment and investigate and take action thereon as provided by this Ordinance.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, they shall notify, in writing by certified mail with return receipt, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The party responsible for the violation shall respond within seven (7) working days from receipt of the letter; otherwise, they will be considered in violation and punishable under Section 2003.

Section 2003 Penalties for Violations

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a Class II misdemeanor and shall be punished by a fine not to exceed two hundred dollars (\$200) or imprisonment for not more than thirty (30) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be a separate offense.

Any architect, engineer, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, appropriate authorities of the county may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

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ARTICLE 21

LEGAL STATUS PROVISIONS

Section 2101 Separability

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

Section 2103 Purpose of Sub-Titles

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

Section 2105 Repeal of Conflicting Ordinances

All ordinances or parts of resolutions in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 2107 Effective Date

This Ordinance shall take effect and be in force from and after its adoption.

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