

**ARTICLE I
GENERAL PROVISIONS**

CHAPTER 1.01. TITLE AND APPLICATION.

Section 1.01.01. Title.

This ordinance shall be known, cited and referred to as the “Joint Zoning Ordinance for Brookings County and the City of Brookings” to the same effect as if the full title were stated.

Section 1.01.02. Jurisdiction.

Pursuant to SDCL Chapters 11-2, 11-4 and 11-6 and all acts amendatory thereto, the provisions of this ordinance shall apply within the unincorporated areas of Brookings County, South Dakota, as established on the map entitled “The Official Joint Jurisdictional Zoning Map of Brookings County and the City of Brookings, South Dakota.”

Section 1.01.03. Purpose.

The zoning regulations and zoning districts herein have been based upon the following adopted comprehensive land use plans, hereafter referred to as “Plans”. The 2016 Brookings County Comprehensive Land Use Plan was adopted on February 9, 2016 by the Board of Brookings County Commissioners and the 2004 City of Brookings Comprehensive Land Use Plan, adopted by the Brookings City Council on November 14, 2004 and Amendments thereto. These Plans are in conformance with SDCL Chapters 11-2, 11-4 and 11-6. These regulations shall establish a common working relationship between the City of Brookings and Brookings County to carry out the goals and objectives of the Plans as adopted by the City and County. The Joint Zoning Ordinance is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Joint Zoning Ordinance is adopted in order to achieve the following objectives:

1. To assist in the implementation of the (Plans) which in their entirety represents the foundation upon which this ordinance is based.
2. To prevent excessive population densities and overcrowding of the land with structures
3. To encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provisions of transportation networks, water supply, storm water drainage, sanitary sewer, education, recreation, or other public improvement requirements
4. To foster a harmonious, convenient, workable relationship among land uses.
5. To promote the stability of existing land uses that conform with the (Plans) and to protect them from inharmonious influences and harmful intrusions.
6. To preserve and protect existing property uses and values against adverse or unharmonious adjacent land uses.
7. To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes;

8. To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of building, structures, and land.
9. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the conformance with the (Plans).

CHAPTER 1.02. ORDINANCE PROVISIONS.

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

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

Section 1.02.02. Purpose of Section Titles.

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

Section 1.02.03. Violation and Penalty.

1. Violations of this ordinance shall be treated in the manner specified below.
 - a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All fees assessed there under shall be rounded to the nearest whole dollar.
 - i. Upon finding such violation, the Zoning Officer shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the normal fee for the associated building permit, variance, conditional use, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars (\$5.00), including the postage costs.
 - ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated building permit, variance, conditional use, and/or rezoning building permit fee plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.

- iii. Any administrative fee or penalty imposed under the provisions of the Joint Zoning Ordinance shall be in addition to any other fees or charges required under this ordinance.
- b. It is declared unlawful for any person to violate any of the terms and provisions of these regulations. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this ordinance may be subject to a civil or criminal penalty. The penalty for violation of this ordinance shall be five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the County Auditor and shall be credited to the General Fund of the County.
- c. In the event, any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Brookings County and/or the City of Brookings in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation
- d. Any taxpayer of the County may judicial proceedings in a court of competent jurisdiction to compel performance by the proper official or officials of any duty required by these regulations.

Section 1.02.04. Separability Clause.

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

Section 1.02.05. Repeal of Conflicting Ordinances.

The Brookings Joint Jurisdiction Ordinance, 1980 is hereby repealed in its entirety. All other ordinances or resolutions or part of ordinances or resolutions in conflict with this ordinance or inconsistent with the provisions of this ordinance are repealed to the extent of this inconsistency only.

Section 1.02.06. Effective Date.

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

1.02.07. Saving Clause.

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

CHAPTER 1.03. OFFICIAL JOINT JURISDICTIONAL ZONING MAP.

Section 1.03.01. Official Joint Jurisdictional Zoning Map.

1. The unincorporated portions of the Area of Joint Zoning Authority is hereby divided into zones, or districts, as shown on the Official Joint Jurisdictional 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 Joint Jurisdictional Zoning Map shall be identified by the signatures of the Chairperson of the Board of County Commissioners, attested by the County Auditor, and the Mayor of the City of Brookings, attested by the City Finance Officer, bearing the seals of Brookings County and the City of Brookings under the following words: "This is to certify that this is the Official Joint Jurisdictional Zoning Map referred to in Chapter 1.03 of Ordinance Number XX of Brookings County, State of South Dakota," and Ordinance XX of the City of Brookings together with the date of the adoption of these Ordinances. The Official Joint Jurisdictional Zoning Map shall be on file at the office of the County Auditor and the office of the City Engineer.
2. Regardless of the existence of purported copies of the Official Joint Jurisdictional Zoning Map which may from time to time be made or published, the Official Joint Jurisdictional Zoning Map, located in the office of the County Auditor, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Area of Joint Zoning Authority.

Section 1.03.02. Amendment of the Official Joint Jurisdictional Zoning Map.

1. If, in accordance with the provisions of this ordinance changes are made in district boundaries or other matter portrayed on the Official Joint Jurisdictional Zoning Map, such changes shall be entered on the Official Joint Jurisdictional Zoning Map promptly after the amendment has been approved by the Board of Brookings County Commissioners and the Brookings City Council, with an entry on the Official Joint Jurisdictional Zoning Map as follows: "On (date of adoption) by official action of the Board of Brookings County Commissioners and the Brookings City Council, the following change(s) were made on the Official Joint Jurisdictional Zoning Map:" (brief description of nature of change), which entry shall be signed by the Chairperson of the Board of County Commissioners attested by the City County Auditor and signed by the Mayor of the City of Brookings attested by the and City Finance Officer.
2. No amendment of this Ordinance which involves matter portrayed on the Official Joint Jurisdictional Zoning Map shall become effective until after such change and entry has been made on the Official Joint Jurisdictional Zoning Map. No changes of any nature shall be made on the Official Joint Jurisdictional Zoning Map or matter shown thereon except with conformity with the procedure set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance.

Section 1.03.03. Interpretation of District Boundaries.

1. Where uncertainty exists as to the boundaries of districts as shown on the Official Joint Jurisdictional Zoning Map, the following rules shall apply:
 - a. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole

- area in the unincorporated portions of the County bounded by the district boundary lines.
- b. Boundaries indicated at approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines;
 - c. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
 - d. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
 - e. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
 - f. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
 - g. Boundaries indicated as parallel to or extensions of features indicated in subsections 1.a. through 1.f. above shall be so construed. Distances not specifically indicated on the Official Joint Jurisdictional Zoning Map shall be determined by the scale of the map; and
 - h. Where physical or cultural features existing on the ground are at variance with those shown on the Official Joint Jurisdictional Zoning Map, or in other circumstances not covered by subsections 1.a. through 1.f. above, the Board of Adjustment shall interpret the district boundaries.

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

1. In the event that the Official Joint Jurisdictional Zoning Map becomes damaged, destroyed, or lost, the Board of County Commissioners and the Brookings City Council may by ordinance adopt a new Official Joint Jurisdictional Zoning Map, which shall supersede the prior Official Joint Jurisdictional Zoning Map.
2. In the event that the Official Joint Jurisdictional Zoning Map becomes difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners and the Brookings City Council may by resolution adopt a new Official Joint Jurisdictional Zoning Map, which shall supersede the prior Official Joint Jurisdictional Zoning Map. The new Official Joint Jurisdictional Zoning Map shall contain previous changes and additions to the previous Official Joint Jurisdictional Zoning Map and may correct drafting or other errors or omissions in the prior Official Joint Jurisdictional Zoning Map.
3. The new Official Joint Jurisdictional Zoning Map shall be identified by the signatures of the Chairperson of the Board of County Commissioners, attested by the County Auditor, and Mayor of the City of Brookings attested, by the City Finance Officer, and bearing the seals of Brookings County and the City of Brookings under the following words: "This is to certify that this Official Joint Jurisdictional Zoning Map supersedes and replaces the Official Joint Jurisdictional Zoning Map adopted (date of adoption of map being replaced) as part of the

Joint Jurisdictional Zoning Ordinance of Brookings County and the City of Brookings, State of South Dakota.”

4. Unless the prior Official Joint Jurisdictional 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.
5. Amendments to the Official Joint Jurisdictional Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.03 of these regulations

Section 1.03.05. Classification of Land Coming Within the Area of Joint Zoning Authority.

In all territories which may hereafter come within the Area of Joint Zoning Authority, the zoning districts, as they exist in the Zoning Ordinance for Brookings County shall be continued unless otherwise changed by ordinance.

Section 1.04. Dissolution of 2019 Joint Zoning Ordinance for Brookings County and the City of Brookings.

1. The regulations contained herein establishing concurrent jurisdiction shall be in effect unless either the City of Brookings or Brookings County adopts an ordinance dissolving said concurrent jurisdiction and regulations. In order to dissolve the concurrent jurisdiction and these regulations, the county and city planning commissions shall meet jointly and hold at least one (1) public hearing on the proposed dissolution. Notice of the time and place of the hearing shall be given once by either the city or county at least ten (10) days in advance by publication in a legal newspaper. Following the public hearing, each planning commission shall submit a recommendation to each respective governing body. If it is the intent of a respective governing body to proceed with the dissolution of the concurrent jurisdiction and these regulations, said governing body shall hold two (2) readings of the ordinance, with at least one (1) public hearing prior to adoption of said ordinance. Notice of the time and place of the hearing shall be given once by either the city or county at least ten (10) days in advance by publication in a legal newspaper.