

ARTICLE III
DISTRICT REGULATIONS

CHAPTER 3.01. APPLICATION OF DISTRICT REGULATIONS.

Section 3.01.01. Application of District Regulations.

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

1. No structure, permanent or temporary, or any part thereof shall be erected, converted, enlarged, reconstructed or structurally altered nor shall any building or use of land be used, except for a purpose listed as a permitted use or conditional use in the district in which the building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit established for the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area and parking regulations of the district in which the building is located.
4. The minimum yards and other open spaces, including lot area, required by this Ordinance for each and every building at the time of passage of this Ordinance or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this Ordinance.
5. All sign sizes, lighting, and locations shall, at a minimum, meet all State and Federal laws and regulations.

CHAPTER 3.02. NONCONFORMING USES.

Section 3.02.01. Purpose and Intent. The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue. Further, it is intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

Section 3.02.02. Continuation of Nonconforming Uses. Subject to the provisions of this article, the lawful use of a premise existing immediately prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof.

Section 3.02.03. Use Becoming Nonconforming by Change in Law or Boundaries. Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions thereof.

Section 3.02.04. Extension or Enlargement. A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located.

Section 3.02.05. Restoration After Damage. When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty (60) percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located.

Section 3.02.06. Repairs and Maintenance. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the nonconformity of the structure shall not be increased.

Section 3.02.07. Unsafe Nonconforming Use. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 3.02.08. Discontinuance of Nonconforming Use. No nonconforming use, building, structure or premises, if once changed to conform to the requirements of this ordinance for the district in which it is located, shall ever be changed back so as to be nonconforming. In the event that a nonconforming use is discontinued for more than one (1) year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located.

Section 3.02.09. Effect on Use Which is Illegal Under Prior Law. Nothing in this ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a premises in violation of zoning regulations in effect immediately prior to the effective date of this ordinance.

Section 3.02.10. Powers of the Planning Commission/Board of Adjustment. Nothing contained in this Section shall be so construed as to abridge or curtail the powers of the Planning Commission(s), Board of Adjustment, City Council or Board of County Commissioners as set forth elsewhere in this Ordinance.

Section 3.02.11. Continuation of Nonstandard Uses. Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

1. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.
2. Structural alteration of buildings or structures may otherwise be made if such changes do not further encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located provided that said additions will be erected no closer to the lot line than the existing building and the addition shall further conform to all ordinance requirements.
3. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

Section 3.02.12. Nonconforming Lots of Record.

1. In any district in which single-family dwellings are permitted, a single-family 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 lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the 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 yard requirements shall be obtained only through action of the Board of Adjustment.
2. If two (2) or more lots of record or combinations of lots of record and portions of lots of record with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots of record do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.
3. Any area proposed or being developed for residential use in the "A" Agricultural Land District must provide for a minimum of thirty-five (35) acres per lot, unless platted prior to May 14, 1976. Exception to the lot size may be made according to Section 3.04.01 and Chapter 5.15.

CHAPTER 3.03. ZONING DISTRICTS.

Section 3.03.01. Districts.

1. For the purpose of this Ordinance, the unincorporated areas of the City of Brookings/Brookings County Joint Jurisdiction Area may be divided into either of the following zoning districts: A-Agricultural; RR-Rural Residential District; and any other commercial, residential, or industrial zoning district identified in the City of Brookings Zoning Ordinance as amended. The regulation, enforcement, and administration of property assigned any zoning designation except A-Agricultural or RR-Rural Residential shall be in accordance with the City of Brookings Zoning Ordinance as amended. In addition to zoning districts, the FP-Flood Protection and AP-Aquifer Protection zoning overlay districts impose special regulations on the property that may fall within these districts without abrogating the requirements imposed by the underlying land use district regulations.
2. The requirements as set forth below for each of the use districts listed as part of this Ordinance shall govern the development within the said districts as outlined on the map entitled "Official Joint Jurisdictional Zoning Map, Brookings County and City of Brookings, South Dakota.
3. "A" AGRICULTURAL LAND DISTRICT - This district is established to preserve open space and maintain and promote farming and related activities within an environment which is generally free of other land use activities. Residential development will be discouraged to

minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.

4. "RR" RURAL RESIDENTIAL DISTRICT – The purpose of this district is to establish opportunity for residential uses at low density as a matter of right, but increased density in planned subdivisions which comply with municipal service requirements but may be compatible with certain low intensity agricultural uses in specific areas identified for low density future growth south of the City of Brookings. This is a closed zoning district, the boundaries of which may only be amended if initiated by the Joint Board of Adjustment.
5. "AP" AQUIFER PROTECTION OVERLAY DISTRICT - The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Brookings County.
6. "FP" FLOOD PROTECTION OVERLAY DISTRICT - The Flood Protection Overlay District is established to protect the natural environment and resources from destructive land uses and to protect lives and property along and adjacent to streams and rivers.

Section 3.03.02. Prohibited Uses. All uses and structures not specifically listed as a permitted use or as a conditional use in a particular zoning district or overlay district shall be prohibited in said district.

CHAPTER 3.04. "A" AGRICULTURAL LAND DISTRICT.

Section 3.04.01. Permitted Uses.

1. Agricultural activities and farm related buildings, including Class D but excluding Classes A, B, and C Concentrated Animal Feeding Operations;
2. One (1) single family residences including manufactured, mobile and modular homes in each quarter-quarter section;
3. Fisheries services and game propagation areas;
4. Orchards, tree farms, truck gardening, nurseries and greenhouses;
5. Public parks and recreation areas;
6. Institution farms;
7. Agricultural research facility;
8. Signs;
9. Accessory uses, including structures and farm experiences as defined herein;
10. Exception to shelterbelt setbacks. See Section 5.14.5;
11. Existing farmstead exemption A. See Section 5.15.02;
12. Existing farmstead exemption B. See Section 5.15.03;
13. Existing farmstead exemption C. See Section 5.15.04;
14. Produce stand for the direct marketing of farm products, 100% of which are grown by the operator and at least 25% of which shall be grown on site. See Section 5.19.03.1;
15. Seasonal U-pick fruits and vegetables operations, orchards. See Section 5.19.03.2;
16. Seasonal outdoor mazes of agricultural origin such as straw bales or corn. See Section 5.19.03.3;
17. Home occupation. See Chapter 5.16;

Section 3.04.02. Conditional Uses.

1. Aviation facilities;
2. Bed and breakfast. See Chapter 5.21;
3. Breweries and distilleries. See Section 5.19.03.7;
4. Campground. See Chapter 5.38;

5. Church or cemetery;
6. Class A, B, and C concentrated animal feeding operations. See Chapter 5.22;
7. Commercial public entertainment enterprises not normally accommodated in commercial areas, including but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races. See Chapter 5.23;
8. Extended home occupation. See Chapter 5.24;
9. Farm experiences. See Section 5.19.03.6;
10. Fur farms;
11. Game lodge. See Chapter 5.25;
12. Golf course, golf driving range;
13. Group home;
14. Holiday tree farms. See Section 5.19.03.5;
15. Meteorological towers. See Chapter 5.28;
16. Private Wind Energy Conversion System (PWECS) provided they meet the requirements of Chapter 5.29;
17. Public utility and public service structure including, substations, gas regulator stations, community equipment buildings, pumping stations, and reservoirs;
18. Religious farming communities. See Chapter 5.30;
19. Sand, gravel or quarry operation; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants. See Chapter 5.31;
20. Sanitary landfills, rubble sites, composting sites, waste tire sites, and restricted use sites. See Chapter 5.32;
21. Seasonal retail stands, excluding garden produce but including fireworks stands;
22. Sewage (domestic) treatment plants. See Chapter 5.33;
23. Commercial Shooting ranges. See Chapter 5.34;
24. Solar energy conversion systems (SECS). See Chapter 5.35;
25. Spreading of manure with irrigation system;
26. Stables, dog/cat kennels;

- 27. Veterinary clinics;
- 28. Wineries. See Section 5.19.03.4;
- 29. Wireless telecommunication towers See Chapter 5.36.

Section 3.04.03. Area Regulations/Easements

- 1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

Table 3.04.03.1

	Minimum Lot Area	Maximum Lot Coverage*	Maximum Height (A)
Single Family Residences	35 Acres	25%	35' (A)
Other Permitted Uses	1 Acre	25%	35' (A)
Existing Farmstead Exemption A	35 Acres (B)	25%	35'
Existing Farmstead Exemptions B and C	5 Acres (B)	25%	35'
Other Conditional Uses	As determined by the Board of Adjustment		

- a. *[Exception to maximum height]* The administrative official may allow heights to exceed thirty-five (35) feet for the following:
 - i. Agricultural buildings.
 - ii. Chimneys, smokestacks, cooling towers.
 - iii. Radio and TV towers.
 - iv. Water tanks.
 - v. Elevators
 - vi. Wind Energy Systems (WES).
 - vii. Wireless Telecommunications Towers and Facilities.
 - viii. Meteorological towers

- b. *[Existing Farmstead Exemptions A, B, or C]*

Minimum lot area applies to properties granted existing farmstead exemptions in accordance with Chapter 5.15.

Table 3.04.03.2

		Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Single Family Residences (B)		100'	25'	25'
Agricultural Structures		50'	25'	25'
Agricultural Research Facility		100'	50'	100'
Other Permitted Uses (B) (C)		100'	25'	25'
Nonconforming Lots of Record		50'	50'	8'
Signs		1'	25'	25'
Shelterbelts (A)	Parallel to ROW	100'	100'	100'
	Perpendicular to ROW	50'		
Conditional Uses		To be determined by the Board of Adjustment		

a. *[Exception to Shelterbelt Setbacks]*

Shelterbelts may be planted within required setbacks if done in accordance with Section 5.14.5.

b. *[Exception to Setbacks for Nonconforming Structures]*

Existing nonconforming residential structures, constructed prior to ADOPTION OF ZONING ORDINANCE, on a lot of record or on a lot containing at least thirty-five (35) acres although considered nonconforming, are eligible to be expanded or added onto, without Board of Adjustment Approval, as long as the existing front, side or rear yard setback(s) is not further encroached upon.

2. Right to Farm Covenant

All new residential development (farm and non-farm) shall be required to file an "Right to Farm Covenant" with the Register of Deeds before the issuance of a building permit. (See Chapter 5.39). Exception: This requirement does not apply to lots of record with existing residential development that are destroyed by an act of God (wind, fire, flood) and subsequently are rebuilt.

3. Access

A. The location of driveways accessing individual parcels shall be separated from adjacent driveways on the same side of the road by the following separation distances:

i. Roads identified on the Major Street plan as:

- a. Local road: 100 foot separation distance
 - b. Collector road: 300 foot separation distance
 - c. Arterial road: 500 foot separation distance
- B. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

CHAPTER 3.05. "RR" RURAL RESIDENTIAL DISTRICT.

Section 3.05.01. Permitted Uses.

1. Agricultural activities and farm related buildings, excluding Concentrated Animal Feeding Operations;
2. Single family residences including manufactured, mobile and modular homes;
3. Fisheries services and game propagation areas;
4. Orchards, tree farms, truck gardening, nurseries and greenhouses;
5. Public parks and recreation areas;
6. Institution farms;
7. Agricultural research facility;
8. Signs;
9. Accessory uses, including structures and farm experiences as defined herein;
10. Exception to shelterbelt setbacks. See Section 5.14.5;
11. Produce stand for the direct marketing of farm products, 100% of which are grown by the operator and at least 25% of which shall be grown on site. See Section 5.19.03.1;
12. Seasonal U-pick fruits and vegetables operations, orchards. See Section 5.19.03.2;
13. Seasonal outdoor mazes of agricultural origin such as straw bales or corn. See Section 5.19.03.3;
14. Home occupation. See Chapter 5.16;
15. Animal units on lots with less than five (5) acres. See Chapter 5.20.

Section 3.05.03. Conditional Uses.

1. More than one (1) single family residence including manufactured, mobile and modular homes in a quarter-quarter section. See Chapter 5.18;
2. Private wind energy conversion systems. See Chapter 5.29;
3. Private solar energy conversion systems. See Chapter 5.35;
4. Stables, dog/cat kennels;
5. Religious institutions and cemeteries;
6. Assisted living facility;

7. Group home;
8. Public utility and public service structure including, substations, gas regulator stations, community equipment buildings, pumping stations, and reservoirs;
9. Wireless Telecommunications Towers and Facilities. See Chapter 5.24;
10. Extended home occupation. See Chapter 5.12.

Section 3.05.03. Area Regulations/Easements

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

Table 3.05.03.1

	Minimum Lot Area	Maximum Lot Coverage*	Maximum Height (A)
Single Family Residences	2 Acres	25%	35' (A)
Other Permitted Uses	2 Acres	25%	35' (A)
Other Conditional Uses	As determined by the Board of Adjustment		

- A. *[Exception to maximum height]* The administrative official may allow heights to exceed thirty-five (35) feet for the following:
 - i. Agricultural buildings.
 - ii. Chimneys, smokestacks, cooling towers.
 - iii. Water tanks.
 - iv. Wireless Telecommunications Towers and Facilities.

2. Minimum lot area applies to properties granted Permitted Special Use Permit by the Administrative Official or Conditional Use Permit by the Board of Adjustment.

Table 3.05.03.2

		Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Single Family Residences (B)		100'	25'	25'
Agricultural Structures (C)		50'	25'	25'
Agricultural Research Facility		100'	50'	100'
Other Permitted Uses (B)		100'	25'	25'
Nonconforming Lots of Record		50'	50'	8'
Signs		1'	25'	25'
Shelterbelts (A)	Parallel to ROW	100'	100'	100'
	Perpendicular to ROW	50'		
Conditional Uses		To be determined by the Board of Adjustment		

- a. *[Exception to Shelterbelt Setbacks]*

Shelterbelts may be planted within required setbacks if done in accordance with Section 5.08.05.

- b. *[Exception to Setbacks for Nonconforming Structures]*

Existing nonconforming residential and accessory structures, constructed prior to **ADOPTION OF ZONING ORDINANCE**, on a lot of record or on a lot containing at least thirty-five (35) acres although considered nonconforming, are eligible to be expanded or added onto, without Board of Adjustment Approval, as long as the existing front, side or rear yard setback(s) is not further encroached upon.

3. Right to Farm Covenant

All new residential development (farm and non-farm) shall be required to file an "Right to Farm Covenant" with the Register of Deeds before the issuance of a building permit. (See Chapter 5.39). Exception: This requirement does not apply to lots of record with existing residential development that are destroyed by an act of God (wind, fire, flood) and subsequently are rebuilt.

4. Access

- a. Unless further restricted in accordance with this ordinance, the location of driveways accessing individual parcels shall be separated from adjacent driveways on the same

side of the road by the following separation distances:

- i. Roads identified on the Major Street plan as:
 - a. Local road: 100 foot separation distance
 - b. Collector road: 300 foot separation distance
 - c. Arterial road: 500 foot separation distance
- b. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

Section 3.05.04 Area Regulations/Easement/Waivers

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

1.

	Minimum Lot Area	Maximum Lot Coverage	Maximum Height (A)	Minimum Lot Width
Permitted Uses	35 Acres	25%	35'	125'
Other Conditional Uses	To be determined by the Board of Adjustment			

- A. Exception to maximum height. The administrative official may allow heights to exceed thirty-five (35) feet for the following:
 - i. Agricultural buildings.
 - ii. Water tanks.
 - iii. Private Wind Energy Conversion Systems (PWECS).
 - iv. Wireless Telecommunications Towers and Facilities provided they meet the requirements of Chapter 5.24.
 - v. Others as determined by the Board of Adjustment.

2.

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Permitted Uses (a)(b)	100'	25'	25'
Conditional Uses	To be determined by the Board of Adjustment		

a. Exception to Setbacks for Nonconforming Structures

- i. Existing nonconforming residential structures, constructed prior to (Date of Adoption) are eligible to be expanded or added onto, without Board of Adjustment Approval, as long as the existing front, side or rear yard setback(s) is not further encroached upon.

3. Easement/Waiver:

- a. All new residential development (farm and non-farm) in the Rural Residential District shall be required to file Easements per 3.04.03.9 before the issuance of a building permit.

4. Access

- a. The drive-way serving the parcel shall be separated from adjacent driveways on the same side of the road by the following distances depending upon road types:
 - a. Local road: 100 feet.
 - b. Collector road: 300 feet.
 - c. Arterial road: 500 feet.
 - d. Minimum distance from intersection of two (2) or more of the above: 100 feet.
- b. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

CHAPTER 3.06 - FLOOD DAMAGE PREVENTION OVERLAY DISTRICT.

Section 3.06.01. - Statutory Authorization, Findings of Fact, Purpose and Objectives.

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapter 11-2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Commissioners of Brookings County, South Dakota, ordain as follows:

2. Findings of Fact

- a. The flood hazard areas of Brookings County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare
- b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

3. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,

- h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

Section 3.06.02. - Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations include methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 3.06.03 - Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

1. Area of Special Flood Hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
2. Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.
3. Corner Lot: A corner lot will have two front yards. In the case of a lot abutting more than one street, the owner may choose any street lot line as the front lot line with consent of the Zoning Official, based on the effects of such choice on development of the lot itself or on adjacent properties. The rear lot line is opposite and most distant the front lot line.th two front yards.
4. Development means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
5. Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters and/or
 - b. The unusual and rapid accumulation of runoff of surface waters from any source.

6. Flood Insurance Rate Map (FIRM) The official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. (Ord 2008-07, 6-24-2008)
7. Flood Insurance Study (FIS) A Flood Insurance Study (FIS) is a book that contains information regarding flooding in a community and is developed in conjunction with the Flood Insurance Rate Map (FIRM). (Ord 2008-07, 6-24-2008)
8. Manufactured Home is a building, used exclusively for human habitation, which is constructed in a manufacturing facility after June 15, 1976, in compliance with the National Manufactured Home Construction and Safety Standards Act and transportable in one or more sections to a building site.
9. Mobile Home is a building, used exclusively for human habitation, constructed in a manufacturing facility prior to June 15, 1976, the effective date of the National Manufactured Home Construction and Safety Standards Act, which is transported on a permanent chassis to a building site. A mobile home shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A travel trailer or other form of recreational vehicle shall not be construed to be a mobile home.
10. Modular Home is a building, used exclusively for human habitation, constructed off site and in compliance with the applicable local or state building code and which is transported on a temporary chassis to a permanent building site.
11. Structure means a walled and roofed building or manufactured home that is principally above ground.
12. Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
 - a. Before the improvement or repair is started, or
 - b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this designation, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
13. Zoning Complaints. All zoning complaints must be in writing and signed.

Section 3.06.04. General Provisions

1. Lands to Which This Ordinance Applies.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Brookings County.

2. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), dated July 16, 2008, is adopted by reference and declared to be part of these regulations. The FIRM is on file at the County Zoning Office, Brookings, SD. (Ord. 2008-07, 6-24-2008)

3. Compliance

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of these regulations and other applicable regulations.

4. Abrogation and Greater Restrictions

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation.

In the interpretation of these regulations, all provisions shall be:

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the governing body; and
- c. Deemed neither to limit nor repeal any other powers granted under State statutes.

6. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Brookings County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

7. Severability

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

Section 3.06.05. Administration

1. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.06.04.2 Application for a development permit shall be made on forms furnished by the Zoning officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the forgoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been flood proofed;
- c. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 3.06.06.2.b; and
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Zoning Officer

The Zoning officer is hereby appointed to administer and implement these regulations by granting or denying development permit applications in accordance with their provisions.

3. Duties and Responsibilities of the Zoning Officer

Duties of the Zoning Officer shall include but not be limited to:

- a. Permit Review
 - i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.
 - ii. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
 - iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

1. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.
2. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
3. If the proposed development is a building, then the provisions of these regulations shall apply.

b. Uses of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.06.04.2, Basis for Establishing the Areas of Special Flood Hazard, the Zoning officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 3.06.06.2, Specific Standards.

c. Information to be Obtained and Maintained.

- i. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- ii. For all new or substantially improved flood proofed structures:
 1. Verify and record the Actual elevation (in relation to mean sea level) to which the structure has been flood proofed.
 2. Maintain the flood proofing certification required in Section 3.06.05.1.c.
- iii. Maintain for public inspection all records pertaining to the provisions of these regulations.

d. Alteration of Watercourses

- i. Notify adjacent communities and Emergency and Disaster Services, Pierre, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, there appears to be a conflict between a mapped boundary and actual field conditions).

Section 3.06.06. Provisions for Flood Hazard Reduction

1. General Standards

In all areas of special flood hazards, the following standards are required:

a. Anchoring

- i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- ii. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 2. Frame ties must be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 4. Any additions to the manufactured home must be similarly anchored.

b. Construction Materials and Methods

- i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- iii. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. Utilities

- i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals

- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
- ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

e. Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.06.05.3.b, Use of Other Base Flood Data, the following standards are require.

a. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one foot above the base flood elevation.

i. Below-Grade Residential Crawlspace Construction

New construction and substantial improvement of any below-grade crawlspace shall:

- 1. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;

2. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;
3. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
4. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
5. Be constructed with materials and utility equipment resistant to flood damage;
6. Be constructed using methods and practices that minimize flood damage;
7. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
8. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 2004-01, 9-28-2004).

b. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- i. Must be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 3.06.05.3.c.ii.

Section 3.06.07. Penalties for Noncompliance

1. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The maximum penalty for violation of this Zoning Ordinance shall be five hundred dollars (\$500.00) or thirty (30) days in the County Jail or both. In addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification shall constitute a separate offense. All fines for violation shall be paid to the Finance Office and shall be credited to the General Fund of the County.

The owner or tenant of any building, structure, premises, or part thereof, any architect, 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. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

2. 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 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 of these regulations, and it is the duty of the State's Attorney to institute such action.

CHAPTER 3.07. AQUIFER PROTECTION.

Aquifer Protection Overlay District.

Section 3.07.01. Purpose:

1. The City of Brookings and Brookings County Planning Commissions, Brookings City Council, and Brookings Board of County Commissioners recognize (1) that residents of Brookings County rely exclusively on ground water for a safe drinking water supply and (2) that certain land uses in Brookings County can contaminate ground water particularly in shallow/surficial aquifers.
2. The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow/surficial aquifers of Brookings County. It is the intent to accomplish this, as much as possible, by public education and securing public cooperation.
3. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations. It is not the intent to grandfather in existing land uses which pose a serious threat to public health through potential contamination of public water supply well head areas.

Section 3.07.02. Definitions.

1. Aquifer. A geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.
2. Best Management Practices (BMP). Means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, waste or manure stockpiles, or drainage from raw material storage.
3. Buffer Zone. An area outside and adjacent to Zone A that has been delineated to account for possible changes in the boundaries of Zone A due to effects of irrigation pumping.
4. Chemigation. The process of applying agricultural chemicals (fertilizer or pesticides) using an irrigation system by injecting the chemicals into the water.
5. Class V Injection Well. A conduit through which potentially contaminated but generally non-hazardous fluids can move from the land surface to the subsurface; the types of primary concern are (1) commercial/industrial facility septic tanks when they are used to dispose of more than domestic wastewater and (2) dry wells for repair/service bay drains at facilities servicing motorized vehicles/ equipment.
6. Concentrated Animal Feeding Operation See Chapter 5.22
7. Contamination. The process of making impure, unclean, inferior, or unfit for use by introduction of undesirable elements.

8. Contingency Plans. Detailed plans for control, re-containment, recovery and clean up of hazardous materials released during fires, equipment failures, leaks and spills or other similar events.
9. Corner Lot is a lot with two front yards.
10. Development. The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.
11. Facility. Something that is built, installed or established for a particular purpose.
12. Grey Water. All domestic wastewater except toilet discharge water.
13. Hazardous Materials. A material which is defined in one or more of the following categories.
 - a. Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture or which has low flash points. Examples: white phosphorous and gasoline.
 - b. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: Polychlorinated Biphenyls (PCBs) in some waste oils.
 - c. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.
 - d. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
 - e. Moderately Toxic: A gas, liquid or solid, which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.
 - f. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.
14. Manure Storage Area. An area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons.
15. Leaks and Spills. Any unplanned or improper discharge of a potential contaminant including any discharge of a hazardous material.
16. Pasture. A field that provides continuous forage to animals without depletion of forage matter.
17. Primary Containment Facility. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.
18. Secondary Containment Facility. A second tank, catchments pit, pipe or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Monitoring and recovery are required.

19. Shallow/Surficial Aquifer. An aquifer in which the permeable media (sand and gravel) starts at the land surface or immediately below the soil profile. The main shallow/ surficial aquifer in Brookings County is the Big Sioux Aquifer.
20. Ten Year Time of Travel Distance. The distance that ground water will travel in ten years. This distance is a function of the permeability and slope of the aquifer.
21. Zone of Contribution. The entire area around a well or well field that is recharging or contributing water to the well or well field.
22. Zoning Complaints. All zoning complaints must be in writing and signed.

Section 3.07.03. Establishment and Delineation of Aquifer Protection Overlay Zones.

1. Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on published maps entitled "Well head Protection Area Maps, Brookings County Shallow Aquifer Map" dated May, 1988, with pages 5 and 9 amended in January of 1999, as drawn by Banner Associates. Said maps are hereby adopted by reference as part of this ordinance as if the maps were fully described herein. In addition to the before mentioned maps the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey Aquifer Materials Map 19 dated 2004, for areas designated 0-50 feet on map, will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed. (Ord. 2006-02, 3-28-2006).
2. The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and United States Geological Survey. This map only serves as a general guide to the location of these aquifers. County studies and other information shall be used, where available, to better determine more precise aquifer locations. Aquifer boundaries are drawn at the discretion of geologists and hydrologists based on best available information. Therefore, actual site specific aquifer boundaries may differ from the attached map and other information. Hydrogeologic information is necessary to verify the location of a concentrated animal feeding operation in relation to an underlying shallow aquifer.

Section 3.07.04. Zone A - Aquifer Critical Impact Zone.

Zone A, the well head protection area, is the zone of contribution mapped around all public water supply wells or well fields and includes land upgradient to the ten year time of travel boundary plus contributing drainage areas, as delineated on the official copy of published maps representing sloping, adjacent lands not underlain by the aquifer from which surface water can flow directly onto Zone A.

Section 3.07.04.01. Permitted uses in Zone A:

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agriculture;

- a. Application of manure is permitted with an approved nutrient management plan.
2. Horticulture.
3. Park, greenways or publicly owned recreational areas.
4. Necessary public utilities/facilities designed so as to prevent contamination of ground water.
5. Best Management Practices are encouraged, particularly in Zone A.

Section 3.07.04.02. Conditional Uses in Zone A:

The following uses are permitted only under the terms of a Conditional Use and must conform to provisions of the underlying zoning district and meet the Performance Standards outlined for the Aquifer Protection Overlay Zones.

1. Expansion of existing conforming and non-conforming uses to the extent allowed by the underlying district. The Joint City/County Board of Adjustment shall not grant approval unless it finds such expansion does not pose greater potential contamination to ground water than the existing use.
2. Sediment basins will be allowed on a case-by-case basis and must be constructed to current NRCS standards and specifications.
3. Expansion of existing Class "D" Concentrated Animal Feeding Operations (CAFOs) that have remained in continuous existence at the time of adoption of Brookings County Zoning Ordinance May 1976. No expansion shall create an operation with greater than one hundred fifty (150) animal units.

Section 3.07.04.03. Prohibited Uses in Zone A:

The following uses are expressly prohibited in Zone A:

1. New Concentrated Animal Feeding Operations of any size after [date of adoption of this ordinance.]
2. Existing Concentrated Animal Feeding Operations in continuous operation since the adoption of the Brookings County Zoning Ordinance May, 1976 will not be able to exceed one hundred fifty (150) animal units.
3. Earthen storage basins and lagoons.
4. Disposal of or stockpiling of solid waste.
5. Post-harvest application of nitrogen fertilizer prior to October 15th except for the spreading of manure.
6. Storage of road salt or disposal of snow containing deicing chemicals.
7. Processing and storage of Polychlorinated Biphenyls (PCB) containing oils;

8. Car washes;
9. Auto service, repair or painting facilities and junk or salvage yards;
10. Disposal of radioactive waste;
11. Graveyards or animal burial sites;
12. Open burning and detonation sites;
13. All other facilities involving the collection, handling, manufacture, use storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality;
14. Land spreading or dumping of petroleum-contaminated soil, waste oil or industrial wastes.
15. Class V injection wells
16. Manure storage outside a properly designed containment facility.
16. All uses not permitted or not permitted as Conditional Uses in Zone A.
17. Transmission facilities designated to transport liquid hydrocarbons or liquid hydrocarbon products.

Section 3.07.05. Zone B - Aquifer Secondary Impact Zones.

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

This portion of the aquifer is being protected because (1) it is a valuable natural resource for future development, (2) it provides drinking water supply for individual households, (3) contamination is not justified, even though this area is not a public water supply wellhead and (4) contaminants could eventually reach Zone A.

Section 3.07.05.01. Permitted Uses in Zone B:

1. All uses permitted in the underlying zoning districts provided that they can meet the Performance standards as outlined for the Aquifer Protection Overlay Zones.
2. Best Management Practices are encouraged, particularly in Zone B.

Section 3.07.05.02. Conditional Uses in Zone B:

1. A cumulative expansion of 250 animal units of existing Class D CAFO's in continuous operation since the adoption of Brookings County Zoning Ordinance on May 1976 not to exceed five hundred (500) total animal units. (Class C).
2. Sediment storage basin meeting Natural Resource Conservation Service (NRCS) standards. See Section 3.07.06.3.

3. All Conditional Uses allowed in underlying districts may be approved by the County Zoning Commission provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Section 3.07.05.03. Prohibited Use in Zone B:

The following use is expressly prohibited in Zone B:

1. New Concentrated Animal Feeding Operations of any size.
2. Earthen storage basins and lagoons.
3. Post-harvest application of nitrogen fertilizer after October 15th except for the spreading of manure.
4. Land spreading or dumping of petroleum-contaminated soil, waste oil or industrial wastes.
5. Class V injection wells.
6. Transmission facilities designated to transport liquid hydrocarbons or liquid hydrocarbon products.

Section 3.07.06. Performance Standards:

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

1. New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the State Department of Environment and Natural Resources.
2. Any facility involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, except for spreading of manure, in excess of 1000 pounds and/or 100 gallons which has the potential to contaminate ground water must have a secondary containment system which are easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectable sumps. Pipes installed to carry diluted chemicals for chemigation are exempted and storage of liquid fertilizer for chemigation is allowed as long as a secondary containment system is used. Secondary containment for tanks used for chemigation must be in place by April 1, 1991.
3. Open liquid waste ponds containing materials referred to in (2) above will not be permitted without a secondary containment system except for community wastewater lagoons. Agricultural waste storage ponds are permitted but must be constructed in conformance with Natural Resource Conservation Service South Dakota Engineering Standard, Waste Storage Ponds 425. (See Appendix 1).
4. Storage of petroleum products in quantities exceeding fifty-five (55) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks must have a secondary

containment system noted in (2) above where it is deemed necessary by the County Zoning office.

5. Discharge of industrial process water on site is prohibited without County Zoning office approval. County approval contingent on state permit from South Dakota Department Environment and Natural Resources.
6. Auto service, repair or painting facilities and junk or salvage yards in Zone B shall meet all State and Federal standards for storage, handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.
7. An acceptable contingency plan for all permitted facilities must be prepared and on file in the County Zoning Office for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire and other natural catastrophes or equipment failure occur:
 - a. For flood control, all underground facilities shall include but not be limited to a monitoring system and secondary standpipe above the 100-year flood control level, for monitoring and recovery. For above ground facilities, an impervious dike, above the 100 year flood level and capable of containing 100 percent of the largest volume of storage, will be provided with an overflow recovery catchments area (sump).
 - b. For fire control, plans shall include but not be limited to a safe firefighting procedure, a fire retardant system and provide for dealing safely with both health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are overhead and buried electrical lines, pipes, other buried objects and other hazardous liquids, chemicals or open flames in the immediate vicinity.
 - c. For equipment failures, plans shall include but not be limited to:

Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring and an overfill protection system. Above ground level, liquid and leaching monitoring of primary containment systems, their replacement or repair and cleanup and/or repair of the impervious surface.
 - d. For any other natural or man-caused disasters occurring, the owner and/or operator shall report all incidents involving liquid or chemical material in an endangerment of the health and /or safety of either disaster personnel and/or the public in general.

Agricultural operations are exempted from this section unless they store chemicals that are on the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) extremely hazardous substance list over the threshold planning quantity at any one time. (See Appendix 3)

The County Zoning Office, DENR and public water supply officials shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate ground water.

8. Since it is known that improperly abandoned wells can become a direct conduit for contamination of ground water by surface water, all abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:04:67-70.

Section 3.07.07. Grant of Permit, Alteration of Use.

A permit will be granted when the County Zoning officer has examined the application and determined that the proposed use, activity or development meets the performance standards.

In securing a use permit, the owner/developer must make future improvements which may become necessary to prevent contamination of shallow/surficial aquifers and the owner/developer must allow County personnel to inspect any improvements to verify they meet the performance standards.

Whenever any person has obtained a permit and thereafter desires alteration of the authorized use, such persons shall apply for a new permit. The owner may appeal a County Zoning officer's decision to modify or deny a requested permit to the Joint City/County Board of Adjustment.

Section 3.07.08. Exceptions.

1. Any lawful use in existence on the effective date of this ordinance shall be permitted to continue provided it can be shown such use does not threaten public health and safety by potential contamination of water in the shallow/surficial aquifers. Any proposed additions, changes or improvements will require a permit.
2. Storage of liquids and chemicals used in agricultural operations during spring/fall planting and crop cultivation are exempt from the requirements of this ordinance April 1 to October 1. Tanks used for chemigation are not exempt. Best Management Practices are encouraged, particularly in Zone A.
3. Storage of liquid or dry fertilizer in amounts equal to or less than 1,000 pounds or 100 gallons, stored indoors by each farm operator is exempt from the requirements of this ordinance.

Section 3.07.09. Limitation of County Liability.

Nothing in this ordinance shall be construed to imply that Brookings County or the City of Brookings, by issuing a permit, has accepted any of an owner/developer's liability if a permitted development contaminates water in shallow/surficial aquifers.

Section 3.07.10. Underlying Zones.

Underlying zoning restrictions apply along with restrictions set forth in the Aquifer Protection Overlay District.

Section 3.07.11. Saving Clause.

Should any section provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.