

ARTICLE V
**SUPPLEMENTAL REQUIREMENTS FOR AGRICULTURAL
AND RURAL RESIDENTIAL DISTRICTS**

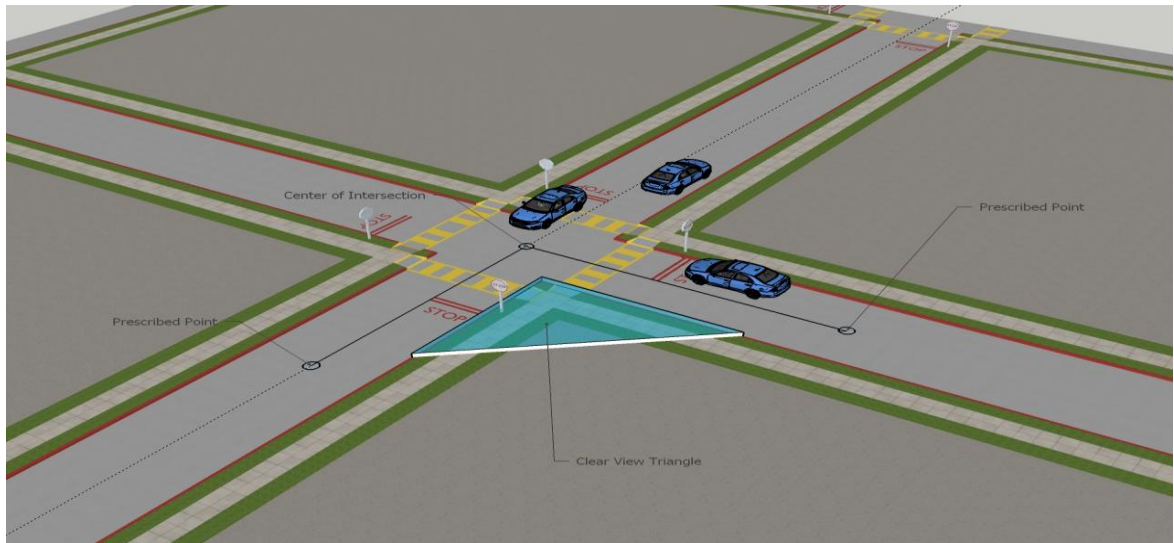
CHAPTER 5.01. APPLICABILITY.

Pursuant to the purpose of this Regulation are certain general requirements that apply to property in the Agricultural and Rural Residential Districts but are not provided for under Article III District Regulations. These requirements are set forth under this Section. General requirements for property with any other residential, commercial, or industrial zoning designation shall be regulated solely by the Official Zoning Ordinance of the City of Brookings, as amended, and such regulations shall supersede any conflicting regulations except for upon property with an Agricultural or Rural Residential zoning designation.

CHAPTER 5.02. VISION CLEARANCE ON CORNER LOTS.

On any corner lot in any zoning district, no planting, structure or obstruction to vision shall be placed or maintained within the triangular area formed by the intersection of the streets and a straight line connecting points on said road right-of-way line each of which is one hundred (100) feet from the point of intersection (Clear View Triangle).

Clear View Triangle Illustration



CHAPTER 5.03. PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS.

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes as defined herein.

CHAPTER 5.04. UTILITY EASEMENTS.

No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

CHAPTER 5.05. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

Only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met. Exception: Secondary residences in the Agricultural Zone, per 4.01.03.8, may be allowed provided that yard and other requirements are met.

CHAPTER 5.06. STRUCTURES TO HAVE ACCESS.

Every building hereafter erected or moved shall be on a lot with access to a public street or with access to private streets approved by the Board of Adjustment and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

CHAPTER 5.07. MINIMUM WATER AND SEWER REQUIREMENTS.

A water and sewer system cannot be approved until it meets the following standards:

1. All public utilities and facilities shall be located, elevated and constructed to minimize or eliminate flood damage; and
2. All residential and commercial uses requiring sanitary sewer/septic services shall be connected to a wastewater treatment system in accordance with the following:
 - a. Residential and commercial uses on lots containing less than twenty thousand (20,000) square feet shall be connected to a sealed holding tank or an approved sanitary sewer district. Existing septic tanks and drain fields as of (date of the ordinance) on lots with an area of less than twenty thousand (20,000) square feet are considered nonconforming uses and may only be replaced by connection to an approved sanitary sewer district or a sealed holding tank.
 - b. Septic systems are required to be installed for homes on all lots containing twenty thousand (20,000) square feet or more, unless the property is connected to an approved sanitary sewer district.
 - c. All septic systems are required to be installed by a South Dakota Department of Environment and Natural Resources (SD DENR) certified installer following South Dakota Administrative Rules Chapter 74:53.

CHAPTER 5.08. REFUSE.

Refuse (rubbish, garbage, trash, wastes, or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lot shall be responsible for keeping their property free of trash.

CHAPTER 5.09. MANUFACTURED HOME REGULATIONS.

Section 5.09.01 – Manufactured/Mobile Homes

1. A manufactured home is an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used for continuous year-round occupancy as a single dwelling. Excludes motorhomes, campers or other camping units. Any manufactured, mobile or modular home must secure a building permit from the County Zoning Official.
2. Residences:
 - a. A new residence to be used for a first occupancy, constructed off the property and moved to the location shall not require adjoining landowner's approval for the issuance of a building permit.
 - b. The County Zoning Officer may issue a building permit for a previously occupied residence to be moved into an appropriate district when the application is accompanied by the written consent of one hundred percent (100%) of the adjoining landowners and one hundred (100%) of the landowners within two hundred (200) feet.
 - c. In the absence of the consent of all neighbors above provided, the Brookings County Planning and Zoning Commission by a 2/3 majority may authorize the issuance of a building permit for the moving in of a previously occupied residence after a public hearing. Notice of the hearing shall be provided in writing at least fourteen (14) days prior to the hearing to all adjoining landowners and all landowners within two hundred (200) feet of the property. In determining whether or not to authorize the permit, the Board shall consider: Whether or not the proposed residence is consistent in character with the other residences in the area.
3. All manufactured/mobile homes, regardless of location, shall be tied down as prescribed by the Protecting Manufactured homes from High Winds, TR75, issued July 1986, by the Federal Emergency Management Agency.
4. All manufactured/mobile homes shall have skirting around the perimeter of the home.
5. All manufactured/mobile homes, must have been constructed after June 15, 1976
6. Replacement of Nonconforming Homes.

Thereafter, upon application to the Zoning Official and subsequent approval thereof, a manufactured/mobile home, located upon any lot or lots of record at the time of the adoption of this ordinance, deemed a legal nonconforming use, may be replaced with a manufactured/mobile home, meeting the constructed date requirement in Section 5.09.01.5

7. Variance from Maximum Age Requirement

Manufactured/mobile homes may receive a variance from the maximum age requirement. The Board of Adjustment may grant a variance if the manufactured home meets the following requirements:

- A. The applicant shall provide a photograph of the manufactured/mobile home's exterior and interior.
- B. That it shall have been shown to the satisfaction of the Zoning Official that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of Brookings County.

CHAPTER 5.10. YARDS.

Section 5.10.01. Yards, Reduction in Size

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

Section 5.10.02. Additional Yard Requirements

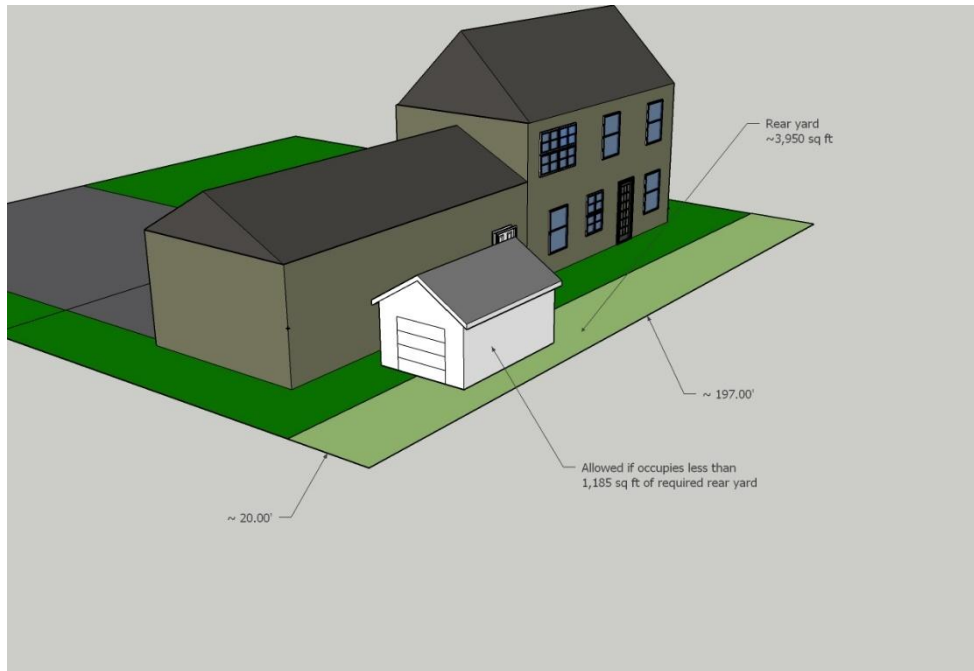
In the case of a lot abutting more than one street, each yard abutting each street shall be considered a front yard.

Section 5.10.03. Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements in all Districts:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. An accessory building in the Rural Residential District may be located in a rear yard but not occupy more than thirty (30) percent of a rear yard. See figure 5.10.03.2.

Figure 5.10.03.2



CHAPTER 5.11. ACCESSORY BUILDINGS.

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such principal use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.
3. No accessory building shall be erected in any setback yard and no separate accessory building shall be erected within ten (10) feet of any other building.

CHAPTER 5.12 SIGNS.

Section 5.12.01 Prohibited Signs

1. No sign shall be erected or maintained which creates a hazard due to collapse, fire, collision, decay, or abandonment; or creates traffic hazards, by either:
 - a. Confusing or distracting motorists; or
 - b. Impairing the driver's ability to see pedestrians, obstacles or other vehicles; or

- c. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or
- d. Creates a nuisance to persons using a public right-of-way; or
- e. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.

Section 5.12.02 Permitted Signs

1. Signs shall be permitted in zoning districts subject to the following provisions:
 - a. Wall signs may be located anywhere on the wall of a building.
 - b. Signs shall not project over public property.
 - c. Signs shall not be erected adjacent to a corner of two (2) intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. See Chapter 5.01.
 - d. Each sign – size, lighting, and location - in the County shall at least meet the standards established by the South Dakota Department of Transportation.
 - e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Zoning official and the said Official grants a permit therefore.
 - f. The Zoning official shall take into consideration factors that would make the proposed sign likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such sign complies with codes relating to outdoor advertising.
 - g. All signs are considered structures and require a building permit.
2. Signs in the Agricultural and Rural Residential Zoning Districts: Freestanding and wall signs erected in the Agricultural and Rural Residential Zoning Districts shall be constructed in accordance with the building permit issued for the sign and, unless specified elsewhere in this ordinance, conform to Table 5.12.02.2
 - a. The sign structure or sign shall have a maximum height of thirty (30) feet. Height of sign is the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground in a straight line directly below, measured from a point equidistant from the sides or edges of the sign.
 - b. Each sign shall be constructed in accordance with minimum setback requirements of the applicable district except that a sign may be constructed in any location in the front yard provided it shall not be closer than ten (10) feet from any street right-of-way and shall comply with all other requirements of this Chapter.

Table 5.12.02.2

Sign Type	Area			Number of signs allowed per lot.		
	<u>Adjacent to Township Right-of-way</u>	<u>Adjacent to County Right-of-Way</u>	<u>Adjacent to State or Federal Right-of-Way</u>	<u>Adjacent to Township Right-of-way</u>	<u>Adjacent to County Right-of-Way</u>	<u>Adjacent to State or Federal Right-of-Way</u>
Freestanding	32 Square Feet			1		
Wall						
Temporary	32 Square Feet			N/A		

3. Temporary Signs: Any sign placed on a lot for less than one hundred eighty (180) days shall be considered a temporary sign. Temporary signs may be placed without obtaining a building permit and shall be regulated as follows:
 - a. Temporary signs may not be placed in any right-of-way
 - b. Temporary signs shall not be erected adjacent to a corner of two (2) intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. See Chapter 5.01.
 - c. Temporary signs in the Agricultural District shall not exceed thirty-two (32) square feet of sign area.

4. Electronic Message Centers (EMC): Electronic message centers shall be subject to all applicable restrictions within this chapter, including, but not limited to, area, height and placement, as well as the following conditions:
 - a. Electronic message center (EMC) displays shall be limited to displays, which have gradual movements, including, but not limited to, dissolving, fading, scrolling, or traveling. However, sudden movement is prohibited, including, but not limited to, blinking and flashing.
 - b. Any permitted signs may be or may include as an individual component of the total sign area, electronic message signs.

CHAPTER 5.13. MOVED IN BUILDINGS.

1. Any building to be moved requires a building permit. The Zoning official may attach conditions to the issuance of the moved in building permit. No permit shall be issued until the following requirements are met.
 - a. The applicable fee for a building permit shall have been paid.

- b. That the work is to be completed within eighteen (18) months after the permit has been issued by the Zoning official.
- c. The County Zoning Officer may issue a building permit for a previously occupied residence to be moved into an appropriate district when the application is accompanied by the written consent of one hundred percent (100%) of the landowners within two hundred (200) feet.
- d. The applicant will indemnify the County and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the county, the Zoning official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

CHAPTER 5.14. SHELTERBELT SETBACK REQUIREMENTS.

- 1. Trees used for landscaping the area immediately adjacent to farmsteads and residences are exempt from the following regulations.
- 2. Unless otherwise permitted in accordance with the requirements of Chapter 5.08.05, shelterbelts, consisting of one (1) or more rows shall be placed as follows:
 - a. When planted parallel to a right-of-way or property line, shelterbelts shall be placed not less than one hundred (100) feet from the respective road right-of-way or property line.
 - b. When planted at right angles to right-of-way or property line, shelterbelts shall be placed not less than fifty (50) feet from the respective road right-of-way or property line.
 - c. Vision clearance on corner lots. On any corner lot in any zoning district, no planting, structure or obstruction to vision shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is one hundred (100) feet distance from the point of intersection (Clear View Triangle).
- 3. The shelterbelts setback requirements (paragraph 2) also apply to volunteer trees that the landowner allows to grow.
- 4. A recommendation from the applicable road authority is required prior to the issuance of any variance of the shelterbelt setback from any respective County, Township or State/Federal public right-of-way.
- 5. Exception to Shelterbelt Setbacks as permitted in the Agricultural and Rural Residential Districts in accordance with Section 3.04.01.10 and 3.05.01.10.

- a. When planted parallel to an adjoining property line, shelterbelts may be planted less than one hundred (100') feet of adjacent property of adjoining property lines (side and rear yards) with written permission from one hundred percent (100%) of the affected adjacent property owner(s).
- b. When planted at a right angle to an adjoining property line, shelterbelts may be planted less than fifty (50') feet of adjacent property of adjoining property lines (side and rear yards) with written permission from one hundred percent (100%) of the affected adjacent property owner(s).
- c. Shelterbelts may be planted not less than fifty (50) feet from the affected right-of-way provided written consent of the applicable road authority specifying the location, type, spacing, and number of trees authorized. This requirement does not restrict the applicable road authority from requiring supplemental agreements for maintenance of the affected right-of-way or proposed trees.

CHAPTER 5.15. EXISTING FARMSTEAD EXEMPTIONS

Section 5.15.01 Existing Farmsteads.

1. Existing Farmsteads shall include a dwelling still in use or having been used in the past as a base for normal farming operations which has been occupied by the owner or tenant within the last three (3) years and shall have existed on the site for at least ten (10) years.
2. Existing Farmsteads shall include sites meeting the following criterion:
 - A. Evidence that the proposed site was once used for human habitation within the last fifty (50) years. This may be determined by existence of buildings/foundations, tax records, or sworn affidavit.
 - B. Evidence that the proposed site was used as a farmstead supporting normal farming operations prior to May 14, 1976.

Section 5.15.02 Existing Farmstead Exemption "A" as a Permitted Use.

The Zoning official may in accordance with Section 3.04.01.11, issue permitted use authorizing two single family dwellings on a single lot in the "A" Agricultural District under the following conditions:

1. Where a permit for an additional single-family farm dwelling is requested on an existing farmstead as defined herein, provided:
 - a. The dwelling is located on the same legal description as the existing farmstead consisting of at least thirty-five (35) acres.
 - b. The maximum number of dwelling units within the existing farmstead will not exceed two (2).
 - c. The additional single family residence shall consist of a manufactured home.

- d. The dwelling is occupied by employees or relatives of the farm owner.
- e. The applicant agrees the additional single-family farm dwelling shall be removed within ninety (90) days in the event the structure is no longer occupied by qualified occupants.

Section 5.15.03 Existing Farmstead Exemption “B” as a Permitted Use.

The Zoning official may in accordance with Section 3.04.01.12 issue permitted use authorizing the construction of one (1) single family residence on a lot containing less than thirty-five (35) acres in the "A" Agricultural District under the following conditions:

- 1. An existing farmstead, as defined herein, is to be divided from adjacent farmland into a single separate parcel. See Figure 5.15.03.
- 2. The proposed parcel shall consist of a lot of record, or a lot as defined herein containing five (5) acres or more.

Figure 5.15.03



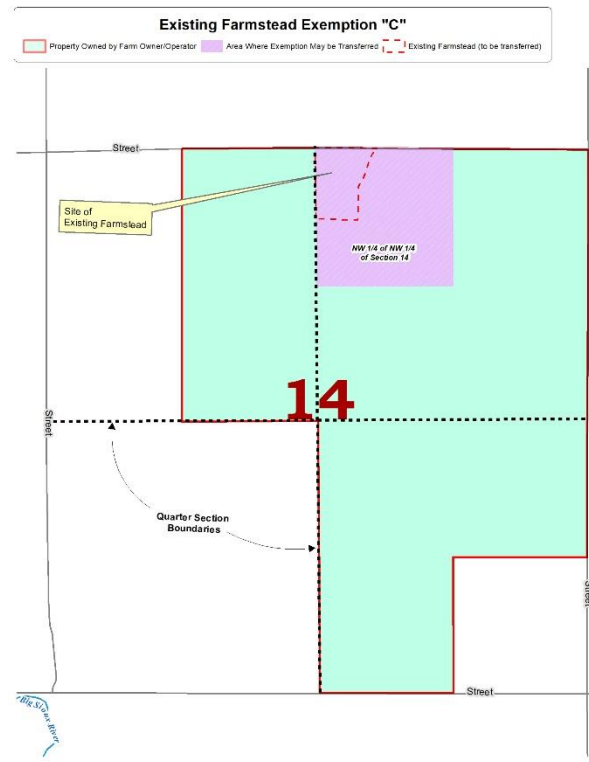
Section 5.15.04 Existing Farmstead Exemption “C” as a Permitted Use.

The Zoning official may in accordance with Section 3.04.01.13, issue permitted use authorizing the construction of one (1) single family residence on a lot containing less than thirty-five (35) acres in the "A" Agricultural District under the following conditions:

- 1. The lot, as defined herein, contains five (5) acres or more

2. The lot is located in the same quarter-quarter section as an existing farmstead
3. The lot is under contiguous ownership with the existing farmstead located in the same quarter-quarter section at the time of creation.
4. The applicant agrees to transfer the "Existing Farmstead Exemption" authorizing a minimum five (5) acre lot from the location of the existing farmstead to the newly created lot.

Table 5.15.04



CHAPTER 5.16. HOME OCCUPATIONS.

1. Home occupations shall be allowed as Conditional Use Permit in the Rural Residential District and as a Permitted Use in the Agricultural District.
2. Home occupations shall be subject to the following requirements:
 - a. Individuals engaged in such occupation shall consist of family members residing on the premises and up to one (1) non-family employee.
 - b. Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof.
 - c. The total area used for such purposes shall not exceed the equivalent of one-fourth (1/4) the floor area, in square feet, of the first floor of the user's dwelling unit, if any, otherwise

of the main floor of such dwelling unit; but in any instance a maximum of three hundred (300) square feet shall be allowed.

- d. There shall be no advertising, display or other indications of a home occupation on the premises except as follows: (1) non-lighted and non-reflecting name plate not more than thirty-two (32) square feet in area, which name plate may designate the home occupation carried on within.
- e. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- f. There shall be no exterior storage on the premises of material used in the home occupation or of any highly explosive or combustible material.
- g. A home occupation, including studios or rooms for instruction, shall provide an additional off-street parking area adequate to accommodate needs created by the home occupation.
- h. No home occupation shall be conducted in any accessory building.
- i. The only retail sales allowed shall be incidental to the home occupation.

CHAPTER 5.17. FENCES.

Section 5.17.01. Permit required.

With the exception of the location of customary farm and animal fencing which is exempt from the permitting requirements of this Section, all fences and walls shall require a building permit.

Section 5.13.02. Location/Construction Requirements.

1. Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard. Except fences, walls, and hedges which are more than thirty (30) percent solid shall not be located within fifty (50) feet of an intersection, measuring along the property lines and connecting these two points by a straight line. Further, the fence, wall, or hedge shall not be constructed within twenty-five (25) feet of a public right-of-way or private road.
2. Fences, with a maximum height of not more than eighty inches (80) inches, may be erected on any part of a lot other than in the required front yard which shall be limited to a height of forty-eight (48) inches.
3. Brookings County and the City of Brookings do not provide surveying services. The property owner is responsible for locating property lines.
4. Fences may be built no closer than one (1) foot up to the property line, not to include the public right-of-way. Exception: Fences may be built on the property line when the adjoining property owners both sign the application and submit an agreement regarding the location and future maintenance of the fence.

5. Fences constructed within an identified easement face the potential of removal in the event of necessary work to be conducted within the easement. Replacement of the removed fence is the responsibility of the owner of said fence.
6. The “finished side” of the fence shall face neighboring properties or the road.
7. Approved fencing materials include stone, brick, wood, vinyl, and chain link. No barbed wire fences, with the exception of fences for the purposes of customary farm and animal fencing or security fences approved by the Board of Adjustment as a conditional use, shall be allowed Rural Residential Districts.
8. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.

CHAPTER 5.18 MORE THAN ONE (1) SINGLE FAMILY RESIDENCE IN EACH QUARTER-QUARTER SECTION.

Section 5.18.01 Standards and Requirements.

1. The use of land shall be limited to single-family dwelling units and any accessory structures allowed by this ordinance.
2. The minimum area upon which a conditional use permit may be granted is upon a parcel or parcels of land six (6) acres in area.
3. The overall density shall not be more than one (1) housing unit per two (2) acres of land.
4. The minimum lot area for each residence shall be not less than two (2) acres.
5. All roads, common facilities, and open spaces shall be maintained by a homeowner's association.
6. Strip or linear development proposals along a road or highway are prohibited.
7. Access to existing public dedicated streets and roads shall be limited. Dwelling units shall not access existing public road right-of-ways. Dwelling unit access shall be provided through the interior street/road system.
8. Any conditional use permit granted shall be based upon the condition that a plat be approved in accordance with the Subdivision Ordinance of the City of Brookings. Approval of a conditional use permit shall not be an implication of intent of the City of Brookings to approve the pending subdivision and in no way obligates the City of Brookings to approve the subsequent plat.
 - a. Approval of the subsequent subdivision by the City of Brookings shall be deemed adequate demonstration that streets are adequate to support the anticipated traffic, including emergency response vehicles, and the development shall not overload the roads outside the planned area.

- b. Approval of the subsequent subdivision by the City of Brookings shall be deemed adequate demonstration that the proposed utility and drainage facilities are adequate for the population densities proposed.
9. In addition to the City of Brookings Subdivision Ordinance, any proposals for more than one (1) single family residence in each quarter-quarter section are subject to the subdivision regulations of Brookings County. In the event of conflicting requirements, the strictest regulation shall apply.
10. All new residential development 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).

Section 5.18.02 Application and Procedure.

The following shall be observed when a proposal for more than one (1) single family residence in each quarter-quarter section is submitted for consideration:

1. Any owner or applicant with written permission from the owner, shall submit a conditional use application to the administrative official with the following included:
 - a. A sketch plan in accordance with the City of Brookings Subdivision Ordinance;
 - b. Location map showing the relationship of the proposed district to existing roads and property lines;
 - c. Proposed land uses, building locations, and housing unit densities;
 - d. Proposed circulation pattern;
 - e. Proposed open space uses;
 - f. Proposed grading and drainage pattern;
 - g. Proposed method of water supply and sewage disposal;
 - h. A list and schedule of improvements to be completed by the developer;
 - i. Any other information necessary to determine compliance with this ordinance.
2. Approval shall be conditioned upon the satisfaction of the following:
 - a. The plat shall be approved by the City of Brookings in accordance with its subdivision ordinance.
 - b. The plat shall be approved by Brookings County in accordance with its subdivision ordinance, unless such ordinance conflicts with the requirements placed upon it by the City of Brookings or the Board of Adjustment.
 - c. Any conditions necessary to carry out the purpose of this ordinance.

- d. Submittal of deed restrictions, agreements for maintenance by the homeowners' association of common facilities and open spaces, guarantees (surety bonds, etc.) by the developer for the completion of the development in accordance with the approved plan, and an agreement binding successors who may take over completion of the development to conditions of the plan approval to the administrative official to determine that conditions placed upon approval of the conditional use permit have been met.

CHAPTER 5.19 AGRICULTURAL TOURISM.

Section 5.19.01 Intent.

The purpose of this Chapter is to provide for uses which help to promote and maintain local farming operations, are complimentary to agriculture, which help maintain an agricultural heritage and rural character, and help to sustain the local farming community.

Section 5.19.02 Application Requirements

An application for an agricultural tourism use shall be filed with the zoning official. The application shall contain the following:

1. Name and address of the applicant.
2. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application.
3. Site Plan.

A plot and development plan drawn in sufficient detail to clearly describe the following:

- A. Physical dimensions and locations of the property, existing structures, proposed structures
- B. A detailed description of what activities will occur on the entire property.
- C. Any other information required to determine compliance with this section.
- D. Any event not described in the original application shall require a separate permit.

Section 5.19.03 Agricultural Tourism Uses.

Agricultural tourism uses include the following and shall be regulated in accordance with this Chapter:

1. Produce stand for the direct marketing of farm products.
 - A. Description.

Produce stand no greater than 400 square feet in building area.

B. Retail.

The retail area may sell in-season fruits and vegetables grown on the farm or from local growers.

C. No food concessions, special events or private events are allowed in conjunction with produce stands.

2. Seasonal U-pick fruits and vegetables operations; holiday tree farms; and seasonal outdoor mazes.

A. Retail.

The retail area may sell in-season products processed and created from plants or animals grown on the farm or from local growers.

B. Food Concessions.

Limited service for such items such as water, pop, coffee, snacks or baked goods.

3. Wineries.

A. Description.

The retail and manufacturing premises of a winemaker operating pursuant to SDCL 35-12.

B. Retail.

Tasting room for sampling of wine and other beverages made by the winery. Bottles of wine, wine related items such as glasses, corkscrews, and coolers. Business related items such as t-shirts, bags, caps, wine books and non-prepared foods.

C. Food Concessions.

Wineries will be allowed limited food services on-site.

D. In the Agricultural District, a minimum of one (1) planted acre of crop or fruit used for the processing, preparation, and/or manufacturing of wine shall be derived from the agricultural use. The winery shall remain secondary to the principal use of the property as a site for agricultural production. If the agricultural production on the site ceases, the winery operation shall cease.

4. Breweries and Distilleries.

A. Description.

The retail and manufacturing premises of a brewery or distillery pursuant to Chapter 35 of South Dakota Codified Laws.

B. Retail.

Tasting room for sampling of beer or liquor, and other beverages made by the brewery or distillery. Bottles of beer or liquor, beer or liquor related items such as t-shirts, bags, caps, brew books, and non-prepared food.

C. Food Concessions.

Breweries and Distilleries will be allowed limited food services on-site.

D. The brewery or distillery shall remain secondary to the principal use of the property as a site for agricultural production. If the agricultural production on the site ceases, the brewery or distillery shall cease operation.

Section 5.19.04. Parking.

1. Parking facilities may be located on a grass or gravel area for seasonal uses such as produce stands, u-pick operations and agricultural mazes. All parking area shall be defined by either gravel, cut lawn, sand, or other visible markings.
2. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.

Section 5.19.05. Signs

1. Only one sign shall be allowed.
2. The sign shall not exceed 32 square feet in area.

CHAPTER 5.20. ANIMAL UNITS ON SMALL ACREAGES.

On parcels of land of five (5) acres or less, a maximum of two (2) animal units per acre will be allowed. Designated concentrated animal feeding operations excluded.

CHAPTER 5.21 RESERVED.

CHAPTER 5.22. CONCENTRATED ANIMAL FEEDING OPERATIONS

Section 5.22.01. Animal Units Equivalent to Animal Species.

Brookings County uses an animal unit equivalency ratio to determine the head count of a specific animal species for the purpose of defining the specific class of a CAFO by animal unit. The animal species equivalents are based upon a species' manure production. The standards for determining an animal unit to animal head count equivalency are derived from the Environmental Protection Agency and the State of South Dakota General Permit. Table 5.22.01 details the classes of Concentrated Animal Feeding Operations and the specific animal unit equivalency ratio. Note that the figures in Table 5.22.01 relate to inventory rather than annual production.

Table 5.22.1

Number of Animals to Define Classes of Concentrated Animal Feeding Operations

Animal Species	Class A CAFO (Over 2,000 Animal Units)	Class B CAFO (1,000 – 1,999) Animal Units)	Class C CAFO (500 to 999 Units)	Class D CAFO (10 to 499 Units – Water Pollution Hazard)	Class E CAFO (10 to 499 Units – No Water Pollution Hazard)	Animal Unit Equivalency Ratio
	Animal numbers equal to or more than:	Animal numbers equal to:	Animal numbers equal to:	Animal numbers equal to:	Animal numbers equal to:	
Cattle other than mature dairy cows or veal calves ¹	2,000	1,000 to 1,999	500 to 999	10 to 499	10 to 499	1.0
Mature Dairy Cattle (milked or dry)	1,400	700 to 1,399	350 to 699	7 to 349	7 to 349	1.43
Swine (weighing over 55 lbs)	5,000	2,500 to 4,999	1,250 to 2,499	25 to 1,249	25 to 1,249	0.4
Swine (weighing less than 55 lbs)	20,000	10,000 to 19,999	5,000 to 9,999	100 to 4,999	100 to 4,999	0.1
Horses	1,000	500 to 999	250 to 499	10 to 249	10 to 249	2.0
Sheep or lambs	20,000	10,000 to 19,999	5,000 to 9,999	100 to 4,999	100 to 4,999	0.1
Turkeys	110,000	55,000 to 109,999	27,778 to 54,999	555 to 27,777	555 to 27,777	0.018
Chickens, other than laying hens using other than liquid manure handling system	250,000	125,000 to 249,999	62,500 to 124,999	1,250 to 62,499	1,250 to 62,499	.008
Laying hens using other than liquid manure handling system	164,000	82,000 to 163,999	41,166 to 81,999	833 to 41,165	833 to 41,165	.0122
Laying Hens & Broilers using liquid manure handling system	60,000	30,000 to 59,999	15,000 to 29,999	300 to 14,999	300 to 14,999	.0333
Ducks Using liquid manure Handling system	10,000	5,000 to 9,999	2,500 to 4,999	50 to 2,499	50 to 2,499	0.2
Ducks using other than liquid manure handling system)	60,000	30,000 to 59,999	15,151 to 29,999	303 to 15,150	303 to 15,150	.033
Geese	60,000	30,000 to 59,999	15,151 to 29,999	303 to 15,150	303 to 15,150	.033

1. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

Section 5.22.02. Classes of Concentrated Animal Feeding Operations.

For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into the following classes:

ANIMAL UNITS

Class A	2,000 or more	
Class B	1,000 to 1,999	
Class C	500 to 999	
Class D	10 to 499	(Zone B Shallow Aquifer)
Class E	10 to 499	(No pollution hazard)

Section 5.22.03. Concentrated Animal Feeding Operation Permit Requirements

Owners of Class A, Class B, Class C, and Class D Concentrated Animal Feeding Operations are required to complete, where applicable, a building permit, and/or conditional use permit application as follows:

1. A new Concentrated Animal Feeding Operation is proposed where one does not exist.
2. An expansion is proposed that exceeds the number of animal units allowed by an existing county-issued permit.
3. An expansion in the number of animal units of a Concentrated Animal Feeding Operation, without a county-issued permit that existed prior to May 13, 1997, would result in the creation of either a Class A, B, or C Concentrated Animal Feeding Operation.
4. In the event there is a change in ownership of a Class A, B, C, or D Concentrated Animal Feeding Operation, which has a previously issued county permit, the new owner(s) has sixty (60) days from the date of legal conveyance of ownership in which to apply for a transfer of a previously issued county CAFO permit in order to keep said current permit valid. The new owner will be required to abide by the permit requirements, findings of facts and any letter of assurances that were issued under the previously approved permit application(s). If no transfer is completed within sixty (60) days, the new owner will be required to submit a new application for approval.
5. An existing Concentrated Animal Feeding Operation is to be restocked after being idle for five (5) years.

6. An unpermitted Concentrated Animal Feeding Operation is in violation of either County or State regulations and does not correct the violation as required by the applicable authority. Violations of State regulations shall be inspected by State officials.

Section 5.22.04. Concentrated Animal Feeding Operation Control Requirements

1. Compliance with South Dakota Department of Environment and Natural Resources.

a. All Concentrated Animal Feeding Operations shall be constructed, located, or operated in compliance with the rules and regulations of South Dakota Department of Environment and Natural Resources.

2. State General Permit.

a. Class A and Class B Concentrated Animal Feeding Operations shall obtain a State General Permit pertaining to the animal species of the Concentrated Animal Feeding Operation. A County conditional use permit may be approved conditioned upon receiving a State General Permit. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan.

b. It shall be at the discretion of the Zoning Officer and/or the Board of Adjustment to require an applicant to submit plans for a Class C or Class D Concentrated Animal Feeding Operations to be reviewed to determine general compliance with standards adopted for a State General Permit.

3. Nutrient Management Plan.

The applicant shall develop, maintain, and follow a nutrient management plan, per the requirements below, to ensure safe disposal of manure and process wastewater and protection of surface and ground water.

a. New Class A, B, and C Concentrated Animal Feeding Operations are required to have a nutrient management plan.

b. Nutrient management plan(s) for Class A and Class B Concentrated Animal Feeding Operations shall be reviewed and approved by the South Dakota Department of Environment & Natural Resources. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan.

- c. The nutrient management plan(s) for Class C Concentrated Animal Feeding Operations nutrient management plans shall be developed by a Certified Crop Advisor and meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standards and all other applicable South Dakota Department of Environment & Natural Resources and Brookings County regulations.
- d. The applicant must maintain records to show compliance with the approved nutrient management plan.
- e. Documentation of land spreading agreements shall be available upon request by the County.

4. Manure Management and Operation Plan

- a. New Class A, B, and C Concentrated Animal Feeding Operations are required to have a Manure Management and Operation Plan.
- b. The manure management and operation plan for Class A and Class B Concentrated Animal Feeding Operations shall be reviewed and approved by the South Dakota Department of Environment & Natural Resources. The issuance of a State General Permit satisfies the county's requirements for an approved manure management plan.
- c. The nutrient management plan(s) for Class C Concentrated Animal Feeding Operations nutrient management plans shall be developed by a Certified Crop Advisor and meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standards and all other applicable South Dakota Department of Environment & Natural Resources and Brookings County regulations.
- d. Manure Management and Operation Plan must include:
 - i. The location and specifics of proposed manure management facilities.
 - ii. The operation procedures and maintenance of manure management facilities.
 - iii. Plans and specifications must be prepared or approved by a registered professional engineer, or a Natural Resource Conservation Service (NRCS) engineer. Manure management treatment facilities will require inspection by an engineer.
 - iv. Manure shall not be stored longer than two (2) years.

- v. Manure management containment structures shall provide for a minimum design volume of three hundred sixty five (365) days of storage. In addition, open outdoor storage shall include minimum storage for direct precipitation and/or runoff from a 25-year, 24 hour storm.
- vi. Manure management facilities utilizing methane digesters may receive on and off-site generated manure and/or organic wastes.
- vii. The applicant will provide information regarding how manure from the CAFO site will be transported to fields identified in the nutrient management plan. This may require the need for a haul road agreement and/or the applicable agreement for pipes to cross the right-of-way or private property. Unless otherwise agreed to between the Road Authority and the applicant, at Brookings County requires, at a minimum, the applicant to abide by minimum requirements of the adopted findings of facts for the applicable size of operation.
- e. The applicant is responsible for the misapplication of the manure whether applied on the applicants own land or on land where there is a land spreading agreement or in transport. The complaint procedure will be the same as for any other zoning complaint.
- f. As a condition of the permit, the Zoning Officer and/or the Board of Adjustment may require the applicant to participate in environmental training programs.

5. Management Plan for Fly and Odor Control

- a. New Class A, B, and C Concentrated Animal Feeding Operations shall dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. A management plan is required for submission of a permit. The Zoning Officer and/or Board of Adjustment will review the need for control measures on a site specific basis. The following procedures to control flies and odors shall be considered in a management control plan:
 - i. Operational plans for manure collection, storage treatment and how said plans will be updated and implemented.
 - ii. Methods to be utilized to dispose of dead animals shall be included.
 - iii. Location of existing and proposed tree/shrub plantings.
- b. The County recommends the following Best Management Practices in the development of a fly and odor management plan:
 - i. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
 - ii. Store solid manure in containment areas having good drainage to minimize odor production.
 - iii. Remove manure from open pens as frequently as possible to minimize odor production.

- iv. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities.
- v. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.

6. Required Minimum Setbacks and Separation Distance for New Class A, B, C, and D Concentrated Animal Feeding Operations

Setbacks for new Concentrated Animal Feeding Operations and those Existing, Non-permitted Concentrated Animal Feeding operations expanding into a Class A, B, C, or D Concentrated Animal Feeding Operations after May 13, 1997 shall be measured from the nearest point of any manure containment facility, earthen lagoon, confinement structure, or open lot to the nearest point of the primary structure for the use deriving the benefit from the structure if applicable. See Table 5.22.05.6.

Table 5.22.05.6

	MINIMUM SETBACKS ^{1 4}			
	CLASS A	CLASS B & NEW CLASS C	NEW CLASS D & E	EXISTING CLASS C, D & E
Established Residences, Churches, and Commercial or Industrial zoned property ^{2, 3}	One-half mile (2,640 feet) or as prescribed in 5.22.05.7	Three-eighths mile (1,760 feet) or as prescribed in 5.22.05.7	One-quarter (1,320 feet) or as prescribed in 5.22.05.7	One-quarter mile (1,320 feet) or as prescribed in 5.22.05.7
Corporate Boundary of the City of Brookings ³	Three miles (15,840 feet) or as prescribed in 5.22.05.7	Two miles (10,560 feet) or as prescribed in 5.22.05.7	One mile (5,280 feet) or as prescribed in 5.22.05.7	One-half mile (2,640 feet) or as prescribed in 5.22.05.7
Aquifer Protection				
Zone A	Prohibited	Prohibited	Prohibited	Prohibited
Zone B	Prohibited	Prohibited	Conditional Use Permit	Conditional Use Permit
Established Private Water Wells ⁵	250 feet	250 feet	200 feet	200 feet
Lakes, Rivers and Streams Classified as Fisheries	150 feet	150 feet	150 feet	150 feet
Federal, State & County Road ROW - Confinement	300 feet	200 feet	200 feet	200 feet
Federal, State, County & Township Road ROW – Open Lot	50 feet	50 feet	50 feet	50 feet
Township Road ROW - Confinement	150 feet	150 feet	150 feet	150 feet
Township Road ROW – Open Lot	50 feet	50 feet	50 feet	50 feet
Designated 100 Year Floodplain	Prohibited	Prohibited	Prohibited	Prohibited

- ¹ Two (2) or more CAFOs under common ownership are a single concentrated animal feeding operation if they adjoin each other (within one mile) or if they use a common area or system for disposal of manure. Required setbacks for the two (2) or more CAFOs treated as a single operation shall not be less than the minimum setback required for each operation if said operations were treated as individual operations.
- ² Established residences do not include any residence established after May 13, 1997 less than one-half (1/2) mile from any Concentrated Animal Feeding Operation which was active at the time of the residence's construction.
- ³ The Board of Adjustment may allow a setback of less than the minimum required provided a written waiver by the entity deriving the benefit of the setback is filed with the application.
- ⁴ The Board of Adjustment may utilize Section 5.22.05.7 to increase or decrease the required setback.
- ⁵ Any well in use in the year (365 days) prior to application for concentrated animal feeding operation permit.

7. Exceptions/Exemptions to Separation and/or Setback Distance Requirements, Variance Still Required

- a. Except as identified in Section 5.22.05.7(e) below, All Concentrated Animal Feeding Operations in operation prior to May 13, 1997, which do not comply with the minimum setback requirements, but continue to operate, and are not expanded in a manner which will result in the one of the following examples are exempt from setback/separation distance requirements:
- i. Example 1: A Class D CAFO expands to a Class A or B CAFO.
 - ii. Example 2: A Class B CAFO expands to a Class A CAFO.
 - iii. Example 3: A Class A CAFO expands by 10% of the number of animal units
- b. A Concentrated Animal Feeding Operation which is expanded or constructed, if the title holder of the land or well benefitting from the distance separation requirement executes a written waiver with the title holder of the land where the Concentrated Animal Feeding Operation is located, under such terms and conditions which the parties may negotiate.
- c. A Concentrated Animal Feeding Operation which is constructed or expanded closer than the required setback/separation distance from the corporate limits of a city that does not have an established Joint City/County Jurisdiction Zoning Ordinance, if the incorporated community approves a written waiver.
- d. A Concentrated Animal Feeding Operation which existed prior to the creation of a residence, educational institution, commercial enterprise, religious institution, incorporated community, if the residence, educational institution, commercial enterprise or religious institution was constructed or expanded or the boundaries of the incorporated community were expanded, after the date that the concentrated animal feeding operation was established. The date that the Concentrated Animal feeding Operation was established is the date on which the Concentrated Animal Feeding Operation commenced operating. A change in ownership or expansion shall not change the date of operation.

8. Manure Application

- a. In addition to the regulations set forth herein, any Class A or B Concentrated Animal Feeding Operation shall apply manure in accordance with the state general permit.
- b. The Board of Adjustment may require manure to be incorporated or injected in order to minimize air and water quality impacts.
- c. The application of liquid manure by means of irrigation is discouraged but will be reviewed by the Board of Adjustment on a site-specific basis. Impact on air and water quality will be taken into consideration.

9. Haul Roads

- a. Any applicant for a new Class A or B Concentrated Animal Feeding Operation shall identify the primary routes to be used for transporting feed and animals to the operation and transporting animals or raw products from the operation and the approximate average number of trucks.
- b. Applicants for a new Class A or B Concentrated Animal Feeding Operation shall enter into a road agreement for identified haul roads, and such agreement shall be filed with the Zoning Officer. Class A or B are required to be situated upon roads adequately designed to carry the proposed number of fully or partially loaded trucks using said CAFO.

10. Standards for Conditional Uses

- a. The Board of Adjustment may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.
- b. The Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations additional conditions which the Board of Adjustment considers necessary to protect the public health, safety and welfare.
- c. Conditional Use Permits for concentrated Animal Feeding Operations shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are being adhered to.
- d. Conditional Use Permit applicants must comply with the Findings of Facts as required by the Board of Adjustment. The Findings of Facts will be prepared by the zoning officer and approved by the Board of Adjustment and signed by the Board of Adjustment's designee. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and associated letter of assurances. Any violation of these regulations or non-compliance with the letter of assurances shall be cause for revoking a permit. If a violation of these regulations or non-compliance with the letter of assurance occurs, permit holders will be notified by registered mail and a hearing before the Board of Adjustment will be held concerning status of the permit. The Board of Adjustment shall either revoke the permit or set a time line for compliance. If compliance is not met, the permit shall be revoked and the permit holder ordered to cease operations.

11. Suggested Minimum Application Information.

The following information may be requested and reviewed by the Board of Adjustment/Zoning Officer prior to the issuance or as a condition to the issuance of a conditional use permit for any class of CAFO.

- a. Owner(s)/Applicant(s) name address and telephone number.
- b. Legal descriptions of site and site plan.
- c. Number and type of animals.
- d. Preliminary nutrient management plan, if required.
- e. Preliminary manure management and operation plan, if required.
- f. Preliminary management plan for fly and odor control.
- g. Information on ability to meet suggested setbacks and separation distances
- h. As a condition of approval of any Concentrated Animal Feeding Operation over 1,000 animal units or as determined by the Board of Adjustment, the documentation of an approved General Permit from the South Dakota Department of Environment & Natural Resources for animal species is required. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan.
- i. Documentation of notice to public water supply officials.
- j. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.
- k. Documentation of notice to whomever maintains the access/haul road(s) (township, county and state).
- l. Any other information as contained in the application and requested by the Zoning Officer.

CHAPTER 5.23 COMMERCIAL PUBLIC ENTERTAINMENT ENTERPRISE REQUIREMENTS

Section 5.23.01 Qualification of Events.

1. Commercial public entertainment enterprises to include short term events (5 days or less) not normally accommodated in commercial areas due to potential generation of noise or the amount of open space required to perform the activity or event, including but not limited to, the following: music concerts, rodeos, tractor pulls and animal and vehicle races.

2. To qualify for a Conditional Use Permit in the Agricultural District, in accordance with this Chapter, commercial public entertainment enterprises shall not occur more than two times in any calendar year.

Section 5.23.02 Application.

1. Applicant shall provide a detailed site plan including:
 - a. A detailed description of what activities will occur on the entire property.
 - b. Manner of cleaning up during and after the event.
 - c. Location of restroom facilities.
 - d. Location of any commercial/retail activities (if any).
 - e. Duration or hours of operation of the event(s)
 - f. Any additional information may be requested to determine whether adequate parking, sanitary sewer provision, health care, emergency services and other services will be provided throughout the duration of the event.
2. Applicant shall provide documentation of liability insurance for the event.
3. Each event shall require a separate permit.

CHAPTER 5.24. EXTENDED HOME OCCUPATION.

There are significant differences between home occupations and extended home occupations. While each use is based on supplementing income, the location and type of business in which each is practiced has unique characteristics. Specifically a home occupation is conducted within the primary structure (residence) while an extended home occupation is conducted in an accessory building. Extended home occupations require a conditional use permit in all districts where they are allowed.

1. For the purpose of this section, provided all requirements are met, the following shall be considered extended home occupations:
 - a. In the Agricultural District, those businesses that support agricultural needs to include but not limited to vehicle and implement repair, implement sales, welding repair conducted in a safe manner; veterinarian's office; seed sales; professional services and others, which in the opinion of the Board of Adjustment, would not conflict with adjoining land uses.
 - b. In the Rural Residential District, those businesses that support the intent of the Lake park Zoning District including but not limited to any use which would be allowed as a Home Occupation in Chapter 5.16.

2. Performance Standards

- a. An extended home occupation may not be changed to another home occupation except by the issuance of a separate conditional use permit.
- b. Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
- c. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign, not to exceed thirty two (32) square feet in area, non-illuminated.
- d. The only retail sales allowed shall consist of the sale of commodities/products prepared on the premises in connection with such occupation or activity. Exception: Seed Sales.
- e. There shall be no outdoor storage of materials, vehicles, etc. related to the extended home occupation unless the aforementioned storage is placed behind a fence approved by the Board of Adjustment.
- f. Extended home occupations should be agriculturally related and be conducted in an accessory building.
- g. No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood.
- h. Noise shall not exceed that generated by the listed permitted uses within the district.
- i. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the voltage off the premises.
- j. The Board of Adjustment may assign appropriate conditions to mitigate any noise, vibration, glare, fumes or electrical interference detectable to the normal senses off the lot.

CHAPTER 5.25. GAME LODGE REQUIREMENTS.

The regulations regarding Game Lodges shall be as follows:

1. All applications for a conditional use permit for a game lodge shall be accompanied by a site plan providing the following information:
 - a. Identification of roads leading to the site.
 - b. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
 - c. Operation plans including whether meals or guide services will be provided, maximum duration of stay per patron.
 - d. Number of beds/maximum occupancy

- e. Detailed floor plan and exterior rendering of the proposed structure(s)
 - f. Potential traffic generated
2. A Conditional Use Permit shall only be granted upon a finding of the Board of Adjustment that the condition of the road serving the site will not substantially deteriorate due to traffic generated by the use.
 3. Permittee shall provide proof of and maintain liability insurance.
 4. Game lodges are required to be constructed in accordance with applicable building codes and zoning requirements.
 5. Game lodges are required to be operated in accordance with South Dakota Codified Law regulating lodging facilities. If the game lodge does not require specific review from any department of the South Dakota Department of Health (SDDOH), the Board of Adjustment may require documentation from SDDOH stating such.
 6. The Board of Adjustment may impose other conditions to ensure that the use of property related to the game lodge is conducted in a manner to be compatible with the surrounding neighborhood.

CHAPTER 5.26 RESERVED.

CHAPTER 5.27. RESERVED.

CHAPTER 5.28. METEOROLOGICAL TOWERS.

Section 5.28.01. Purposes.

1. The general purpose of this Section is to regulate the placement, construction, and modification of Meteorological (MET) Towers in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the collection of meteorological data for future development of wind energy systems.

Section 5.28.02. Development of Towers.

1. MET Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred ninety-nine (199) feet. MET Towers may be permitted in excess of one hundred ninety-nine (199) feet in accordance with Chapter 5.36.
2. An application to develop a Tower shall include:
 - a. The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application, or a copy of the lease agreement indicating the lessee has authority to place said tower on the parcel.

- b. The legal description, folio number, and address (as applicable) of the parcel of land upon which the Tower is situated.
 - c. No application shall be approved from landowners or on property on which there are current or past unresolved violations outstanding.
3. The Board of Adjustment may require an Applicant to supplement any information that the Board considers inadequate or that the Applicant has failed to supply. The Board of Adjustment may deny an Application on the basis that the Applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the Board in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial.

Section 5.28.03. Setbacks.

- 1. All MET Towers up to one-hundred (100) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district.
- 2. MET Towers in excess of one hundred (100) feet in height shall meet the following.
 - a. Distance from existing off-site residences, business and public buildings shall be one thousand (1,000) feet. Distance from on-site or lessor's residence shall be five hundred (500) feet.
 - b. Distance from right-of-way (ROW) of public roads shall be 500 feet or one point one (1.1) times the height of the wind turbines depending upon which is greater, measured from the ground surface to the tip of the blade when in a fully vertical position.
 - c. Distance from any property line shall be 500 feet or one point one (1.1) times the height of the wind turbines depending upon which is greater, measured from the ground surface to the tip of the blade in a fully vertical position unless wind easement has been obtained from adjoining property owner.
- 3. Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
- 4. Setback requirements may be modified, as provided herein, when placement of a Tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the Tower.

Section 5.28.04. Structural Requirements.

All Towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with applicable building codes, and any other standards outlined in this Ordinance. All Towers in operation shall be fixed to land.

Section 5.28.05. Federal Aviation Administration and South Dakota Department of Transportation Compliance.

1. The proposed Meteorological Tower shall meet or exceed all requirements of the Federal Aviation Administration (FAA) and South Dakota Department of Transportation- Aeronautics Commission (SDDOT-AC) with regard to transmission of signals, height, marking, and registration of the Tower. If compliance is not necessary, documentation from the applicable agency shall be provided to the Zoning official and kept with this application.
2. If the FAA or SDDOT-AC do not regulate the markings of the proposed MET Tower, the Board of Adjustment may require marking of towers including but not limited to: alternating orange and white markings on the structure and markers on any guyed wires.

Section 5.28.06. Notification of Aerial Applicators.

As a condition of approval of a Conditional Use Permit for a MET Tower the Board of Adjustment may require the notification of airports and airfields of the proposed location of the tower and specific information relating to the tower's height, appearance, etc.

CHAPTER 5.29. PRIVATE WIND ENERGY CONVERSION SYSTEMS (PWECS).

The regulations regarding Private Wind Energy Conversion Systems (hereafter referred to as PWECS) shall be as follows:

1. Limited Use. No PWECS installed in accordance with the requirements of these regulations shall generate power as a commercial enterprise as defined by the Public Utility Commission.
2. Setback Requirements. The minimum distance between the property line, overhead utility lines or another wind turban, and any tower support base of a PWECS shall be equal to the proposed tower height (plus the radius of the rotor for the horizontal access machines).
3. Contiguous property owners and planned developments may construct a PWECS for their use in common. If property held by more than one (1) single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted to the Board of Adjustment for their approval.
4. Tower Access. Climbing access to the PWECS tower shall be limited either by means of a fence six (6) feet high around the tower base with a locking portal, or by limiting tower climbing apparatus so there is access to it no lower than twelve (12) feet from the ground.
5. Electromagnetic Interference. If a PWECS is installed in any location along or within the major access of an existing microwave communications link, the person desiring to install the PWECS shall be required to provide a letter from the business whose link they are within or adjacent to stating that the business whose link is affected would have no objection to the installation of the PWECS.
6. Air Space. A PWECS shall be located or installed in compliance with the guidelines of the Federal Aviation Administration Regulations with regard to Airport Approach Zones and clearance around VOR stations.

7. Interconnect. The PWECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company.

CHAPTER 5.30 RELIGIOUS FARMING COMMUNITY

Section 5.30.01 Minimum Requirements.

1. A religious farming community shall comply with the following conditions:
 - a. A religious farming community shall be prohibited if proposed to be located on a parcel situated over Zone A or B of the Brookings County Aquifer Protection District.
 - b. The minimum lot area for a religious farming community shall be thirty-five (35) acres.
 - c. Direct access to public roads shall be limited. Roads shall be provided so as to provide access for emergency vehicles to each structure.
 - d. The religious farming community shall be supplied with a potable water supply and sewage disposal facilities, including washing, toilets and bathing facilities, and similar facilities, and all of which shall meet all applicable State and County codes and regulations.
 - e. Garbage and rubbish storage and disposal shall be handled in such a manner so as not to create a health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. The religious farming community shall provide a sanitary method of disposing of solid waste, in compliance with state laws, rules and regulations.
 - f. The growth of brush, weeds, and grass shall be controlled. All areas shall be maintained to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health.
 - g. The Board of Adjustment may impose other conditions to ensure that the use of property related to the religious farming community is conducted in a manner to be compatible with the surrounding neighborhood.
 - h. A permit to establish a religious farming community shall not imply consent to operate any other use for which a separate permit is required.

Section 5.30.02 Application Requirements.

An application for a religious farming community shall be filed with the zoning official. The application shall contain the following:

1. The address and legal description of all property upon which the religious farming community is to be located, together with the name, residence and mailing address of the recorded owners of all such property.
2. Plans for supplying potable water including the source.
3. The plans for providing private wastewater facilities, i.e. septic tanks, holding tanks, sanitary sewer treatment systems.

4. The plans for holding, collecting and disposing of solid waste material.
5. A sketch plan of the property showing:
 - a. Proposed location of residences, agricultural activities, commercial/industrial activities, places of assembly.
 - b. Dimensions of all buildings.
 - c. Distance from all buildings/uses to the property lines at the closest points.
 - d. Dimensions of all property lines.
 - e. Name and location of all adjacent streets and roads.
 - f. Proposed grading and drainage pattern.
 - g. Proposed interior circulation pattern of roads.
 - h. Utility (water, sewer, electricity) plans.

Section 5.30.03. Separate Permits Required.

1. Any use proposed in conjunction with the religious farming community requiring a conditional use permit shall be considered separately from the conditional use permit for the religious farming community.
2. Building permits are required in accordance with Section 6.01.03 of this ordinance. The zoning official may only issue building permits and allow uses in accordance with the approved site plan for each specific conditional use permit. Upon approval of the site plan, the Board of Adjustment may indicate what, if any, uses may be additionally allowed and under what conditions without the Board's reconsideration. Similarly, upon approval of the site plan the Board of Adjustment may indicate if the location or size of any structures may be changed between the Board's approval and the approval of the zoning official.

CHAPTER 5.31. SAND, GRAVEL OR QUARRY OPERATION; ROCK CRUSHERS; MINERAL EXPLORATION AND DEVELOPMENT AND CONCRETE AND ASPHALT MIXING PLANTS REQUIREMENTS.

Section 5.31.01 Application

1. In addition to the application and required fee for a Conditional Use Permit, the applicant shall submit a site plan indicating the following information:
 - a. A description of the mineral or minerals which are the subject of the mining or milling.
 - b. A detailed site Map(s) showing

- i. The general area within which the mining or milling operation will be conducted with areas identified by phase if applicable.
- ii. Present topography, soil types, and depth to groundwater.
- iii. Location of existing water drainage, wetlands, buildings, and shelterbelts.
- iv. Identification of roads leading to the site.
- v. Property boundaries of adjacent landowners within 500 feet.
- vi. Proposed changes at the site such as access drives, shelterbelts, buildings, changes in topography, topsoil storage areas, berms, and fence lines.
- vii. Proposed wetland mitigation areas, if any.
- viii. Location of on-site storage of chemicals and petroleum products including containment plan.

Section 5.31.02 State and Federal Requirements.

1. All applicants for sand, gravel or quarry operations; mineral exploration and extraction operations; rock crushers; and concrete/ asphalt mixing plants shall demonstrate prior to the commencement of operation that the site meets the requirements of the State Department of Environment and Natural Resources.
2. The applicant shall identify specific phases when monitoring and inspection of the mining and milling activities shall be conducted by County, State, or Federal personnel or their representatives to assure compliance with all applicable rules and regulations. If the conditional use permit is granted, the permit shall identify such inspection and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Board of Adjustment.

Section 5.31.03 Setbacks

1. Sand, gravel or quarry operation; Mineral exploration and extraction operations; rock crushers; and concrete/ asphalt mixing plants will not be allowed within two hundred (200) feet of a residence. The setback will be measured from the mineral exploration and extraction operations; rock crushers; and/or concrete and asphalt mixing plant's property line to the nearest residence. Exception: The owner of a residence may waive the setback requirement provided the owner submits a notarized waiver form acceptable to the Zoning Officer.
2. Sand, gravel or quarry operation; Mineral exploration and extraction; rock crushers; and/or concrete and asphalt mixing plants shall be set back at least one hundred (100) feet from any public right-of-way.

3. Sand, gravel or quarry operation; Mineral exploration and extraction; rock crushers; and/or concrete and asphalt mixing plants shall be set back a minimum of fifty (50) feet from all property lines (excluding public right-of-way).

Section 5.31.04 General Provisions:

1. Haul Roads.

A requirement for receiving a permit for extraction/mining operations shall include a haul-road agreement between the applicant and appropriate governmental entity (County, Township, or Municipality).

2. Noise Pollution.

The applicant may be required to provide information regarding how potential noise pollution would be minimized.

3. Visual Considerations.

- a. Earth berms and vegetation should be employed to minimize visual impacts and reduce the effects of noise and dust.
- b. The need for and placement of berms should be determined by the orientation and position of the excavation site with respect to residences and roadways. Berms should be located in a way as to restrict the public's view of the property. Generally, berms should be six feet in height and seeded immediately after construction to avoid soil erosion. Berms should be maintained and kept reasonably free of weeds.
- c. Location of berms and vegetation may not create sight distance obstructions at roadway intersections.

4. Hydrology, dewatering and drainage.

- a. Dewatering of the extraction site should not result in downstream flooding.
- b. Berms should not interrupt the natural drainage of the area, unless the diversion is part of an approved drainage control system.

5. The applicant shall further provide:

- a. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed mining or milling.
- b. A description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the area's ecological balance and any other related hazard to public health and safety.

6. The applicant shall provide for a plan for land reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands.
 - a. A reclamation schedule.
 - b. Methods of plugging exploration drill holes.
 - c. Methods of removing and returning topsoil and subsoil.
 - a. Methods of grading, backfilling and contouring of exploration sites, access roads, and mining sites.
 - e. Methods of waste management and disposal, including liquid and solid wastes.
 - f. Method of revegetation.
7. Utilities/Easements. No exploration or excavation shall occur within recorded easements without the express written consent of the party holding such record of the utility/easement.
8. A conditional use permit shall be issued only after all conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of mining and milling activities.
9. Solution mining, in situ mining of an ore body with circulation of chemicals through injection and recovery wells, for minerals is prohibited.

CHAPTER 5.32 SANITARY LANDFILLS, RUBBLE SITES, COMPOSTING SITES, WASTE TIRE SITES, AND RESTRICTED USE SITES REQUIREMENTS.

1. The site must meet the requirements of the State Department of Environment and Natural Resources for the use which is proposed.
2. A sanitary landfill, rubble sites, composting sites, waste tire sites and restricted use sites shall be prohibited if proposed to be located on a parcel situated over Zone A or B of the Brookings County Aquifer Protection District.
3. A site plan is provided indicating the following information:
 - a. Present topography, soil types, depth to groundwater.
 - b. Location of existing water drainage, existing buildings, existing shelterbelts.
 - c. Identification of roads leading to the site.
 - d. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
 - e. Proposed monitoring wells.

4. A minimum of one thousand three hundred twenty (1,320) feet from the property line of the sanitary landfill, rubble site, composting site, waste tire site, and restricted use site to the nearest residence or commercial use; excluding: the residence of the landfill operator.
5. Applicants for sanitary landfills, rubble sites, composting sites, waste tire sites, and restricted use sites requirements shall be responsible for preventing debris from leaving the site.
6. Applicants for sanitary landfills, rubble sites, composting sites, waste tire sites, and restricted use sites requirements shall prepare a plan for reclamation of the site.
7. A Conditional Use Permit shall only be granted upon a finding of the Board of Adjustment that the condition of the road serving the site will not substantially deteriorate due to the traffic generated by the use.
8. The Board of Adjustment may impose other conditions to ensure that the use of property related to the sanitary landfill, rubble site, composting site, waste tire site, and restricted use site is conducted in a manner to be compatible with the surrounding neighborhood.

CHAPTER 5.33. (SEWAGE) DOMESTIC TREATMENT PLANT/FACILITY REQUIREMENTS.

1. The site must meet the requirements of the State Department of Environment and Natural Resources for the use which is proposed.
2. A site plan is provided indicating the following information:
 - a. Present topography, soil types, and depth to groundwater.
 - b. Location of existing water drainage, existing buildings, existing shelterbelts.
 - c. Identification of roads leading to the site.
 - d. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
 - e. Proposed monitoring wells.
3. No sewage treatment plant/facility will be allowed within one thousand three hundred twenty (1,320) feet from the property line of the sewage treatment plant/facility to the nearest residence; excluding: the residence of the sewage treatment plant/facility operator.
4. A Conditional Use Permit shall only be granted upon a finding of the Board of Adjustment that the condition of the road serving the site will not substantially deteriorate due to the traffic generated by the use.
5. The Board of Adjustment may impose other conditions to ensure that the use of property related to the sanitary sewer treatment plant/facility is conducted in a manner to be compatible with the surrounding neighborhood.

CHAPTER 5.34. COMMERCIAL SHOOTING RANGE REQUIREMENTS.

Section 5.34.01. Conditional Use Permits.

No commercial shooting range shall be established without first obtaining a Conditional Use Permit.

Section 5.34.02. General Regulations for All Ranges.

No Conditional Use Permit shall be approved for any commercial shooting range unless the following conditions are met or specifically waived as by condition of the Board of Adjustment.

1. Once the range is open for business the approved plan, once approved, shall be posted in a prominent place at the site. Any changes to the safety plan shall be submitted to the County Board of Adjustment for approval. At a minimum the safety plan must state:
 - a. A method of identifying the Range Officer when the Range Officer is present at the site. Additionally, a permanent log identifying the Range Officer who is present when required at the facility must be maintained and available for inspection by the County or local law enforcement officers.
 - b. The authority of Range Officers to carry out the rules and regulations on the site and to enforce penalties.
 - c. Controlled substances are prohibited on the site.
 - d. Rules for the safe handling of weapons.
 - e. A building and grounds maintenance plan.
 - f. Administrative Rules to include regulations that normally govern range schedules, parking, guest policies, member/user responsibilities, hours of operation, security, program development, range supervision and other items such as sign-in procedures.
 - g. Regulations on the type of weapon, shooting activity, caliber, shot size or type of target to ensure safety for range users and others.
 - h. The penalties that are in force for violations of the safety plan.
 - i. The method used to control trespass or unauthorized access to the range.
2. On an annual basis, applicants must provide proof of liability insurance.
3. Applicants shall continuously keep the County informed as to the current names and telephone numbers of the officers of any organization having an interest in the Range. Any changes to the names or telephone numbers of the officers shall be reported to the County within thirty (30) days of the change.
4. All Shooting Ranges must control entrance to their sites.

5. No alcohol licenses shall be permitted on site.
6. Parking space for all members, owners or guests must be on-site and is not allowed on public streets or roads.

Section 5.34.03. Special Regulations for Ranges.

Applications for all ranges, in addition to any other requirements of this Ordinance, must also show:

1. A survey delineating the layout of all individual Ranges.
2. Setbacks to all property lines.
3. Method of containing projectiles within each individual range (such as earthen berms or other method).
4. Methods to be employed to reduce noise, including impulse noise.
 - a. The maximum noise that may escape the range into areas not controlled by the owner is 125 dB.
5. All Shooting Ranges shall be designed using the NRA Range Source Book as a guideline.

Section 5.34.04. Application Requirements.

Each application for a Range shall, at a minimum, include the following:

1. A description of specific activities to be conducted on-site.
2. The hours and days of operation.
3. The maximum number of people using the facility at any one time.
4. A plan, if applicable, for collecting and recycling used shot.
5. A delineation of any special events, if any.
6. A sewage, water and solid waste management plan.

Section 5.34.05. Area Regulations.

1. Minimum Lot Size: Ten (10) acres.
2. Minimum Front Yard: One hundred (100) feet.
3. Minimum Side Yard: Three hundred (300) feet.
4. Back of the Range Setback: A minimum of one thousand (1,000) feet from any buildings and/or roads, excluding range buildings.

5. Setback from Residences: One-quarter (1/4) mile to be measured from the firing line to the nearest residential dwelling.
6. Setback from Commercial Uses: One-quarter (1/4) mile to be measured from the firing line to the nearest commercial structure.
7. Setback from Churches and Schools: One-quarter (1/4) mile to be measured from the firing line to the nearest church or school.
8. Setback from Municipalities: Three (3) miles to be measured from the firing line to the corporate limits of the municipality.

Section 5.34.06. Miscellaneous Regulations.

In the event that any provision of this Chapter or the Conditional Use Permit is violated, or the County otherwise reasonably believes that the health, safety or general welfare of the public is endangered by the use, or if the County reasonably believes that a public nuisance has been created, then, upon ten (10) days written notice, the County may originate action to either modify or cancel any Conditional Use Permit.

CHAPTER 5.35 SOLAR ENERGY CONVERSION SYSTEM.

The regulations regarding commercial Solar Energy Conversion Systems (hereafter referred to as SECS) shall be as follows:

Section 5.35.01 Intent.

The intent of regulations for Solar Energy Conversion Systems is to encourage the development of alternative sources of energy while protecting the health, safety and welfare of the public.

Section 5.35.02 Minimum Requirements.

The following standards apply to Commercial SECS:

1. Commercial SECS shall be permitted only on lands zoned Agricultural with the issuance of a conditional use permit.
2. Signs.

No advertising signs or logos shall be permitted on the SECS. One (1) project identification sign, not to exceed sixteen (16) square feet, shall be allowed.

3. An interconnection agreement must be completed with an electric utility.

4. Public Roads.

The permittee shall obtain all locally required road permits for construction. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the SECS project and shall notify the governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the SECS. Where practical all-weather roads shall be used to deliver all other heavy components to and from the SECS site.

5. The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate governmental body having jurisdiction over approved haul roads for construction of the SECS for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and components. The permittees shall notify the County Development Department of such arrangements.

6. Private Roads.

The permittee shall promptly repair private roads, easements or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

7. Dust Control.

The permittees shall utilize all reasonable measures and practices of construction to control dust.

8. Stormwater Pollution Prevention Plan (SWPPP) and Soil Erosion and Sediment Control Plan.

The permittees shall develop a SWPPP and Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the County Planning Department. The SWPPP and Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

9. Other standards and codes.

All solar farms shall be in compliance with any applicable local, state and federal regulatory standards for solar energy systems.

Section 5.35.03 Application Requirements

An application for a commercial SECS shall be filed with the zoning administrator. The application shall contain the following:

1. Name and address of the applicant.
2. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application.
3. Site Plan.

A plot and development plan drawn in sufficient detail to clearly describe the following:

- b. Physical dimensions and locations of the property, existing structures, and proposed structures.
 - c. Location of electrical lines and facilities.
 - d. Existing topography.
 - e. Proposed grading and removal of natural vegetation.
 - f. Setbacks.
 - g. General information on the typical type, size, height, rated power output, performance, and safety, of each SECS model, and electrical transmission equipment.
 - h. A location map to scale of all occupied structures within ½ mile of the boundary of the property upon which the SECS is to be located.
 - i. An application including any SECS which is located within a 100-year flood plain area, as such flood hazard areas are shown on the maps designated by FEMA, shall be accompanied by a Flood Plain Development Permit.
 - j. Project schedule with anticipated construction date and completion date.
 - k. A Staging Area Plan depicting properties where materials and construction equipment will be stored during the installation process.
4. If the zoning official determines it is necessary, the application shall be accompanied by a photograph or detailed drawing of each model of SECS; and one or more detailed computer or photographic simulation drawing showing the site fully developed with all proposed SECS and accessory structures. Such additional information as shall be required by the zoning official.

5. Decommissioning/Restoration/Abandonment

a. Decommission Plan.

Within 120 days of completion of construction, the permittees shall submit to the County Development Department a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out the restoration requirements when they go into effect. The permittee of the SECS shall ensure that it carries out its obligation to provide the resources necessary to fulfill these requirements. The County Planning Department may at any time request the permittee of the SECS to file a report with the County Planning Department describing how the permittee is fulfilling this obligation. A Commercial SECS shall be deemed inoperable if it has not generated power for 12 consecutive months.

b. Site Restoration.

Upon expiration of this permit, or upon earlier termination of operation of the SECS, the permittee shall have the obligation to dismantle and remove from the site all electrical generating equipment, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet. To the extent possible, the permittee shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be provided to the County Development Department and shall show the locations of all such foundations. All such agreements between permittee and the affected landowner shall be submitted to the County Development Department prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition with eighteen (18) months after expiration.

c. Providing Surety.

The Planning Commission shall decide if it is prudent to require a line of credit or some other proof of financial resources available for decommissioning, and that such resources will remain available.

Section 5.35.04. Separate Review and Permits Required.

1. Solar Energy Conversion Systems may involve complex technical issues that require review and input that is beyond the expertise of County staff. The County Development Department may require the applicant to pay reasonable costs of a third- party technical study of a proposed facility. Selection of expert(s) to review the proposal will be in the sole discretion of the County.
2. Building permits are required in accordance with Section X.XX.XX of this ordinance for each proposed structure.

CHAPTER 5.36. WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES.

Section 5.36.01. Development of Towers.

1. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred and fifty (150) feet. Towers may be permitted in excess of one hundred and fifty (150) feet in accordance with "Criteria for Site Plan Development Modifications."
2. No new Tower shall be built, constructed, or erected in the County unless the Tower is capable of supporting three other Persons' operating Tele-communications Facilities comparable in weight, size, and surface area to the Telecommunications Facilities installed by the Applicant on the Tower within six (6) months of the completion of the Tower construction. No tower shall charge co-location fees in excess of commercially reasonable industry amounts. Each tower constructed shall upon the request of Brookings County mount law-enforcement or public safety communications apparatus.
3. An application to develop a Tower shall include:
 - a. The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application.
 - b. The legal description and address of the parcel of land upon which the Tower is situated.
 - c. A site plan.
 - d. A written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
 - e. Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in, "Structural Requirements," of this Ordinance.

Section 5.36.02. Setbacks.

1. All Towers up to one-hundred (100) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district.
2. Towers in excess of one hundred (100) feet in height shall meet the following.
 - a. Distance from existing off-site residences, business and public buildings shall be one thousand (1,000) feet. Distance from on-site or lessor's residence shall be five hundred (500) feet.
 - b. Distance from public right-of-way shall be set back one (1) additional foot per each foot of tower height in excess of one hundred (100) feet.

- c. Distance from any property line shall be set back one (1) additional foot per each foot of tower height in excess of one hundred (100) feet.
3. Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
4. Setback requirements may be modified, as provided herein, when placement of a Tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the Tower.

Section 5.36.03. Structural Requirements.

All Towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with applicable building codes, and any other standards outlined in this Ordinance. All Towers in operation shall be fixed to land.

Section 5.36.04. Separation of Buffer Requirements.

For the purpose of this Chapter, the separation distances between Towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower. Proposed Towers must meet the following minimum separation requirements from existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Ordinance:

1. Monopole Tower structures shall be separated from all other Towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.
2. Self-supporting lattice or guyed Tower structures shall be separated from all other self-supporting or guyed Towers by a minimum of fifteen hundred (1,500) feet.
3. Self-supporting lattice or guyed Tower structures shall be separated from all monopole Towers by a minimum of seven hundred and fifty (750) feet.
4. The separation requirements contained in 5.36.04 shall not be required of existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Ordinance.

Section 5.36.05. Method Of Determining Tower Height.

Measurement of Tower height for the purpose of determining compliance with all requirements of this Section shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto which extend more than twenty (20) feet over the top of the Tower structure itself. Tower height shall be measured from grade.

Section 5.36.06. Illumination.

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a Tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA.

Section 5.36.07. Exterior Finish.

1. Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.
2. As a condition of approval of a Conditional Use Permit for a Telecommunication Tower the Board of Adjustment may require the notification of airports and airfields of the proposed location of the tower and specific information relating to the tower's height, appearance, etc.

Section 5.36.08. Certifications And Inspections.

1. The County or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspections and certifications required above, to inspect the Tower for the purpose of determining whether it complies with this ordinance and all other construction standards provided by federal and state law.
2. The County reserves the right to conduct such inspections at any time, upon reasonable notice to the Tower owner. All expenses related to such inspections by the County shall be borne by the Tower owner.

Section 5.36.09. Maintenance.

1. Tower owners shall install and maintain Towers, Telecommunications Facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
2. All Towers shall maintain compliance with current RF emission standards of the FCC.
3. In the event that the use of a Tower is discontinued by the Tower owner, the Tower owner shall provide written notice to the County of its intent to discontinue use and the date when the use shall be discontinued.

Section 5.36.10. Criteria For Site Plan Development Modifications.

1. A modification to the requirements of Sections 5.36.02 – 5.36.09 may be approved by the Board of Adjustment at the time of issuance of a Conditional use in accordance with the following:
 - a. In addition to the requirement for a Tower Application, the Application for modification shall include the following:

- i. A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.
 - ii. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification. It may be necessary to include a technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based.
 - iii. For a modification of the setback requirement, the Application shall identify all parcels of land where the proposed Tower could be located, attempts by the Applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
 - iv. The Board of Adjustment may require the Application to be reviewed by an independent Engineer under contract to the County to determine whether the antenna study supports the basis for the modification requested. The cost of review by the County's Engineer shall be reimbursed to the County by the Applicant.
 - b. The Board of Adjustment shall consider the Application for modification based on the following criteria:
 - i. That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
 - ii. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
 - iii. In addition, the board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification.
2. In addition to the requirements of subparagraph (1) of this Section, in the following cases, the Applicant must also demonstrate, with written evidence, the following:
 - a. In the case of a requested modification to the setback requirement, that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located and the alternative for the Person is to locate the Tower at another site which is closer in proximity to a residentially zoned land.
 - b. In the case of a request for modification of the separation and buffer requirements from residential use of land of , if the Person provides written technical evidence from an Engineer(s) that the proposed Tower and Telecommunications Facilities must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system and if the Person is willing to create approved landscaping and other buffers to screen the Tower from being visible to residentially used property.

- c. In the case of a request for modification of the height limit for Towers and Telecommunications Facilities or to the minimum height requirements for Antenna Support Structures, that the modification is necessary to:
 - i. Facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or
 - ii. To meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented with written, technical evidence from an Engineer(s) that demonstrates that the height of the proposed Tower is the minimum height required to function satisfactorily, and no Tower that is taller than such minimum height may be practical.

Section 5.36.11. Abandonment.

1. If any Tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the Brookings County Board of Adjustment shall notify the Owner, with a copy to the Applicant, that the site will be subject to a determination by the Board of Adjustment that such site has been abandoned. The Owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence that the Tower has been in use or under repair during the period. If the Owner fails to show that the Tower has been in use or under repair during the period, the Board of Adjustment shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within seventy-five (75) days, dismantle and remove the Tower.
2. To secure the obligation set forth in this Section, the Applicant [and/or Owner] may be required to post financial assurance in a form as determined by the Board of Adjustment.

Section 5.36.12. Action of the Board of Adjustment.

1. Brookings County shall approve or deny an application for co-location within ninety (90) days of the submission date of a complete application. Failure to act by the Board of Adjustment within the prescribed time frame entitles the applicant the ability to file a court action. The court action is to be filed within thirty (30) days from the required date of action of the Board of Adjustment.
2. Brookings County shall approve or deny an application for a new wireless telecommunications facility within one hundred fifty (150) days of the submission date of a complete application. Failure to act by the Board of Adjustment within the prescribed time frame entitles the applicant the ability to file a court action. The court action is to be filed within thirty (30) days from the required date of action of the Board of Adjustment.
3. The Board of Adjustment may not deny the application on the basis that a competing provider already provides coverage.

Section 5.36.13. Meteorological Towers (MET Towers) Exempt from this Chapter.

Meteorological Towers (MET Towers) as defined herein are regulated in accordance with Chapter 5.28 and shall hereby be exempt from the requirements of Chapter 5.36.

CHAPTER 5.37. RESERVED.

CHAPTER 5.38 CAMPGROUND

Section 5.38.01 Minimum Requirements.

1. A campground shall comply with the following conditions:
 - a. The minimum lot area for a private campground facility shall be five (5) acres.
 - b. Each campsite shall contain at least two thousand (2,000) square feet.
 - c. The Board of Adjustment will determine whether the street(s) directly providing access to the proposed private campground will adequately withstand traffic generated.
 - d. Access roads shall be provided to each campsite and all access roads shall have a minimum unobstructed width of fourteen (14) feet for all one-way roads, and twenty (20) feet for all two-way roads.
 - e. No manufactured homes shall be located in the campground.
 - f. The campground(s) shall be supplied with a potable water supply and sewage disposal facilities, including washing, toilets and similar facilities, and all of which shall meet all applicable State and County codes and regulations.
 - g. Garbage and rubbish storage and disposal shall be handled in such a manner so as not to create a health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. The campground shall provide a sanitary method of disposing of solid waste, in compliance with state laws, rules and regulations.
 - h. The grounds shall be kept free of rubbish, trash, or debris, which could become a safety hazard.
 - i. The growth of brush, weeds, and grass shall be controlled. All areas shall be maintained to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health.
 - j. Public Safety Access – The owner of the private campground shall allow Law Enforcement and Brookings County Zoning Official or designee immediate access to determine if the terms and conditions within the conditional use permit are complied with.
 - k. No camping units on site November 1st through April 1st.
 - l. In the event the private campground does not comply with the terms of the conditional use permit and said permit is revoked, the owner of the private campground shall provide for, at their expense, the restoration of the site to its original condition, including the removal of all campers or RV's, dumpsters, and other related vehicles, or to a use permitted by the zoning ordinance in a time frame to be determined by the Board of Adjustment.
 - m. All applicable requirements of the South Dakota Department of Health shall be met.

- n. The Board of Adjustment may impose other conditions to ensure that the use of property related to the private campground is conducted in a manner to be compatible with the surrounding neighborhood.

Section 5.38.02 Application Requirements.

An application for a private campground shall be filed with the County Zoning Official. The application shall contain the following:

1. The address and legal description of all property upon which the campground is to be located, together with the name, residence and mailing address of the recorded owners of all such property.
2. Plans for supplying potable water including the source, amount available and location of outlets.
3. The plans for providing toilet including the source, number and location, type and the means of disposing of waste deposited, to include black or grey water from campers.
4. The plans for holding, collecting and disposing of garbage.
5. The plans, if any, to light the campground.
6. A sketch plan of the property showing:
 - a. Location of Camping Pads/sites.
 - b. All amenities (bathrooms, showers, drinking water, outlets, light poles, roads)
 - c. All existing and proposed buildings or additions.
 - d. Dimensions of all buildings.
 - e. Distance from all campsites/buildings to the property lines at the closest points.
 - f. Dimensions of all property lines.
 - g. Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles.
 - h. Name and location of all adjacent streets, alleys, waterways and other public places.
 - i. Proposed grading and drainage pattern.
 - j. Proposed interior traffic circulation pattern.
 - k. Proposed open space uses.
 - l. Utility (water, sewer, electricity) plans.
 - m. Relation of the proposed development to the surrounding area and comprehensive plan.

CHAPTER 5.39. RIGHT TO FARM NOTICE COVENANT.

The following easement is to be utilized as required for farm and non-farm residential development within the Agricultural and Rural Residential Districts.

Prepared by Brookings County Zoning Office
520 3rd St, Suite200
Brookings, SD 57006

RIGHT TO FARM NOTICE COVENANT

You are hereby notified that the property you are constructing a new residence, stick-built, modular or manufactured, or modifying an existing residence, described in the Legal Description below, that is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during a 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs and successors or assigns.

Legal Description: _____

IN WITNESS WHEREOF, the Grantors have executed this instrument on _____, 20_____.

Signature, Grantor

Signature, Grantor

Print, Grantor

Print Grantor

STATE OF SOUTH DAKOTA

SS:

COUNTY OF BROOKINGS

This instrument was acknowledged before me on _____, 20____ by

(Grantors).

Notary Public

My Commission Expires: _____