

Ordinance #2023-01

ORDINANCE #2023-01, AN ORDINANCE AMENDING #2011-2, AN ORDINANCE AMENDING ORDINANCE #2005-1, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR HAMLIN COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND/OR ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED by the Board of County Commissioners of Hamlin County, South Dakota that CHAPTER 3.04 "A" AGRICULTURAL DISTRICT, which was adopted by Ordinance #2011-2, an Ordinance Amending Ordinance #2005-1, as amended, of the Zoning Ordinance of Hamlin County be amended by to remove the following stricken language and add the language in bold and underlined font:

CHAPTER 3.04 "A" AGRICULTURAL DISTRICT

Section 3.04.01 Purpose

This district is established to preserve open space and maintain and promote farming and related activities within an environment which is generally free of other land use activities. The Agricultural District is further characterized, as land areas not yet ready for further development. Residential development, other than single-family farming units, will be discouraged to minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.

Section 3.04.02 Permitted Uses

1. Agricultural activities and farm related buildings, including Type **ED** Concentrated Animal Feeding Operations.
2. Site-built single-family dwellings, modular homes, and Type **IA** manufactured homes used as farm or non-farm dwellings.
- ~~3. Farm dwelling. **Reserved.**~~
4. Fisheries services and game propagation areas (Public wildlife production areas).
5. Public parks and recreation areas.
6. On-site Signs.
7. Animal husbandry service.
8. Stabling, Pasturing, Raising Of Livestock on Small Acreages. (See Chapter 5.08).

Section 3.04.03 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the "A" Agricultural District:

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limit of this district.

2. Home occupation **(subject to Chapter 5.34)**.
3. Temporary roadside stands for sales of agricultural products grown or produced on the premises provided that there have been no past complaints or violations regarding previous sales.
4. On-premise signs.

Section 3.04.04 Conditional Uses

1. Airports and airstrips.
2. Church or cemetery.
3. Golf course, golf driving range, clubhouse.
4. Sand, gravel, or quarry operation; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants provided they meet the requirements of Chapters 5.21 and 5.28, as applicable.

5. Transfer of eligible building site – See Chapter 3.04.05.3 Reserved

6. Institution farms.
7. Bed and breakfast home. (See Chapter 5.3**43**)
8. Domestic sanitary sewer treatment plant/facility; provided they meet the requirements of Chapter 5.3**40**.
9. Class A, Class B, and Class C Concentrated Animal Feeding Operations. (See **Concentrated Animal Feeding Operations, Article IV**, Chapter 5.25) including off site manure containment systems for new or existing CAFO's.
10. Commercial stables.
11. Veterinary clinics.
12. Junkyards/salvage yards, provided that they meet the following minimum requirements and other restrictions that the Planning Commission may deem appropriate provided they meet the requirements of Chapter 5.3**21**.
13. Water pumping stations, elevated tanks and similar essential public utilities and service structures.
14. Wireless Telecommunications Towers and Facilities. (See Chapter 5.23)
15. Commercial public entertainment enterprises not normally accommodated in commercial areas, including but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races;

16. Seasonal, **roadside** retail stands utilizing a permanent structure.
17. Extended home occupation (See Chapter 5.19).
18. Livestock sales barns **(Subject to Chapter 5.25)**.
19. Sanitary Landfills, Rubble sites, composting sites, waste tire sites, restricted use sites, and other sites governed by the South Dakota Department of Environment and Natural Resources permits for solid waste provided they meet the requirements of Chapter 5. ~~3029~~.
20. Fur farms and kennels.
21. Wind Energy System (WES). (See Chapter 5.22).
22. Commercial orchards, tree farms, truck gardening, nurseries, **and** greenhouses, **and other horticultural services;**
- ~~23. Horticultural services. **Reserved.**~~
24. Type B manufactured home.
25. Contractor shops and yards.
26. Off-site signs.
27. Public buildings or facilities erected or established and operated by any governmental agency.
- ~~28. Secondary farm residences for family and farm employees. (See Chapter 3.04.05.3.c) **Reserved**~~
29. Earthen storage basin or lagoon used for manure storage.
30. Commercial storage garages **(subject to Chapter 5.35)**.
31. Irrigation of manure, processed generated wastewater, process wastewater of effluent through irrigation pivot or traveling gun **(subject to County Manure Application Setbacks)**.
32. Private Wind Energy Conversion System (PWECS) (See Chapter 5.26).
33. Temporary structures used for the sale of fireworks between June 27th and July 5th provided that there have been no past complaints or violations regarding previous sales.
34. Religious farming communities.

Section 3.04.05 Special Permitted ~~Special Use~~

1. Transfer of ~~Eligible~~ Building Site **Eligibility** (See Section 3.04.06.3).
2. ~~Additional Dwelling~~ **Secondary farm residence for family and farm employees** (See Section 3.04.06. ~~45~~).

3. Shelterbelts less than one hundred fifty (150) feet of a public road right-of-way line on the north or west side of said right-of-way (See Section 3.04.06.6). **Reduced setback for shelterbelts and ornamental plantings (subject to Chapter 5.18).**
4. Shelterbelts less than one hundred (100) feet of a public road right-of-way line on the south or east side of said right-of-way (See Section 3.04.06.6). **Reserved.**
5. Ornamental plantings, as described in Section 5.18.2, less than fifty (50) feet from a public road right-of-way (See Section 3.04.06.6). **Reserved.**

Section 3.04.06 Area Regulations

1. All buildings shall be set back from road right-of-way lines and lot lines to comply with the following requirements:

Agricultural District - Schedule of Regulations

<u>Minimum Lot Size</u>	<u>2 Acres*</u> **
<u>Minimum Front Yard Setback for Agricultural Related Structures on an Existing Farmstead</u>	<u>50 Feet**</u>
<u>Minimum Front Yard Setback for dwellings on an Existing Farmstead</u>	<u>100 Feet**</u>
<u>Minimum Front Yard Setback for all structures not on an Existing Farmstead</u>	<u>100 Feet**</u>
<u>Minimum Lot width</u>	<u>150 Feet**</u>
<u>Minimum Side Yard Setback</u>	<u>15 Feet**</u>
<u>Minimum Rear Yard Setback</u>	<u>30 Feet**</u>
<u>Maximum Lot Coverage for Dwellings and Accessory Structures</u>	<u>25 Percent**</u>

* All residential lots shall be a minimum of two (2) acres not including public road right-of-way, except as provided in 3.04.05.2 of this Section.

** All conditional uses shall have minimum area regulations determined by the Board of Adjustment.

2. Intensity of Use: Each buildable lot must be at least two (2) acres not counting the road right-of-way, and no more than one (1) dwelling per quarter-quarter section. Each quarter-quarter section shall have one (1) building eligibility when all of the following conditions are met:
 - a. There are no other dwellings on the quarter-quarter section.
 - b. The building site shall be a minimum of two (2) acres.
 - c. Approval has been granted by the appropriate governing entity for access onto a public road.
 - d. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.

3. Transfer of building site eligibility: Building site eligibility may be transferred by a **Special Permitted ~~Special~~ Use** permit subject to the following conditions:
 - i.
 - ii. a. The transfer of an eligible building site from one (1) quarter-quarter section to another quarter-quarter section may be allowed when all of the following conditions are met:
 - i. There are no dwellings on the quarter-quarter section from which the building eligibility is being transferred.
 - ii. The transfer of building eligibility shall occur only between contiguous parcels under the same ownership.
 - iii. The parcel of land from which the building eligibility is being transferred was a lot of record as of April 1, 1997.
 - iv. An affidavit documenting the transfer of the residential building right shall be recorded in the office of the Hamlin County Register of Deeds prior to the issuance of a building permit.

~~4. An easement will be required of any non-farm dwelling to be located within one-half (1/2) mile of any existing Concentrated Animal Feeding Operation. **Reserved.**~~

- iii. ~~4-5.~~ Additional Dwellings: A **Special Permitted ~~Special~~ Use** may be issued by the Board of Adjustment for one additional single-family dwelling or manufactured home may be allowed to be constructed, erected, or placed on an existing farmstead provided subject to the following conditions:
 - iv.
 - i. The dwelling is located within the perimeter of the existing farmstead.
 - ii. The maximum number of dwelling units within the existing farmstead will not exceed two.
 - iii. The dwelling is occupied by employees or relatives of the farm owner or operator.
 - iv. The additional single-family farm dwelling shall be removed in the event the structure becomes a non-farm dwelling.

~~6. Reduced setback for shelterbelts and tree plantings: A reduced setback for fences, tree plantings, and shelterbelts may be granted if the applicant obtains one hundred percent (100%) of the adjoining property owner's signatures by petition. Applicant must also provide the signatures of two (2) Township Board members to include the Township Chairman and one Supervisor, if the reduced setback is adjacent to a Township Right of Way. Applicant must provide the signature of the County Highway Superintendent if the reduced setback is adjacent to a County Road Right of Way. Applicant must provide the signature of Area Engineer if adjacent to State DOT Road Right of Way. Applicant must provide the signatures of the Home Owners Association President and one Board Member if the reduced setback is adjacent to a Private Road Right of Way. (Ordinance #03-12) **Reserved.**~~

~~5-7.~~ Access

- a. The driveway serving the parcel shall be separated from adjacent driveways on the same side of the road by the following distances depending upon road types:
 - i. Local road: 100 feet;

- ii. Collector road: 300 feet;
 - iii. Arterial: 500 feet;
 - iv. Minimum distance from intersection of two or more of the above: 100 feet
- b. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit
 - c. For all proposed uses and structures adjacent to County/Township roadways, an access permit from the County Highway Superintendent shall be required. A permit shall also be required for all field driveways and approaches. The cost to construct any driveway or approach shall be the responsibility of the applicant. Such driveways and approaches will be built according to the Hamlin County Specifications. (Ordinance #06-02)

6.-8. Height Regulations

No main building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. Exceptions include the following structures:

- a. Water tanks.
- b. Wind Energy System (WES) and Private Wind Energy Conversion Systems (PWECS).
- c. Agricultural buildings.
- d. Wireless Telecommunications Towers and Facilities.
- e. Others, providing that they are not used for human occupancy.

Section 3.04.067 Easements/Waivers

1. An Agricultural easement must be filed with Register of Deeds on all property to be used as a site for a newly constructed residence (~~farm and non-farm~~) prior to issuance of a building permit (See Chapter 5.24).
2. Applicants for residential development (~~farm and non-farm~~) are required to obtain a written waiver from the owner/operator of any existing concentrated animal feeding operation which is closer than one-half (1/2) mile from the proposed residential building site. In the event the owner/operator of the existing concentrated animal feeding operation refuses to sign the waiver, the applicant for residential development shall sign a separate easement to be attached to the property. The easement waives the applicant's and subsequent owner's common law rights to object to the existing concentrated animal feeding operation's potential need for a variance from the setback requirements from the Hamlin County Zoning Ordinance. This waiver shall be filed with the Register of Deeds (See Chapter 5.27).

BE IT ORDAINED by the Board of County Commissioners of Hamlin County, South Dakota that ARTICLE IV ADMINISTRATION, which was adopted by Ordinance #2011-2, an Ordinance Amending Ordinance #2005-1, as amended, of the Zoning Ordinance of Hamlin County be amended by to remove the following stricken language and add the language in bold and underlined font:

CHAPTER 4.01 GENERAL

Section 4.01.01 Permits Required

No building/use or other structure shall be erected, moved **onto a property**, added to, ~~or~~ structurally altered **or used** without a permit issued by the Zoning Officer. The Zoning Officer except in conformity with the provisions of this ordinance shall issue no permit, unless he/~~she~~ received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this ordinance. **A building permit is also required for any filling, grading, lagooning, or dredging which is related to site preparation for future construction**

Section 4.01.02 Applications

All applications for permits shall be accompanied by a site plan **drawn to scale**, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. **The applicant shall state the existing and intended use of all such buildings, and the location of existing proposed water and sewer facilities. In the case of a change of use, the applicant shall, in writing state the intended change.** The application shall include such other information as lawfully may be required by the Zoning Officer, ~~including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary~~ to determine conformity with, and provide for the enforcement of, this ordinance. ~~Such All~~ plans and data accompanying the permit shall be final and conclusive. Deviations shall be deemed a violation of this Ordinance, and punishable as provided in 1.02.03. **and shall require a new building and use permit.**

Section 4.01.03 Fees

The Board of County Commissioners shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Board of County Commissioners.

Until all applicable fees, charges, and expenses have been paid in full, no **decision action** shall be **taken made** on any application or appeal.

Section 4.01.04 Building/Use Permit

1. Building Permit Required.

- a. It shall be unlawful to commence the excavation for or the construction of any building or any accessory building, or to commence the moving or **structural** alteration **or use** of any buildings,

including accessory buildings, until the Zoning Officer has issued a building permit for such work. Exception: Temporary structures with a gross floor area of less than one hundred fifty (150) square feet do not require building permits but shall comply with all other regulations contained herein.

~~b. It shall be unlawful to commence work until the building permit is displayed in a conspicuous place visible from public right-of-way.~~

2. ~~Issuance of a Building Permit. In applying to the Zoning Officer for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size, and height and location of all buildings, to be erected, altered, or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, the location of existing or proposed water and sewer facilities, and supply such other information as may be required by the Zoning Officer for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other regulations of the County then in force, the Zoning Officer shall issue a building permit for such excavation or construction. If a building permit is refused, the Zoning Officer shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Officer shall grant or deny the permit within a reasonable time from the date the application is submitted.~~

A Building/Use Permit shall be deemed to authorize, and is required for both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect, so long as such building and the use thereof or the use of such land is in full conformity with the requirements of this ordinance and any requirements pursuant thereto. However, on the serving of a written notice by the Zoning Officer of any violation of any of the said provisions or requirements with respect to any building or the use thereof or of land, the Building/Use Permit for such use shall without further action, be null and void, and a new Building/Use Permit shall be required for any further use of such building or land.

3. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this Ordinance. If the work described in any building permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Officer and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building/use permit has been issued. **If substantial progress has been made within one (1) year) months from the issuance of the permit but has not been completed, the Zoning Officer may extend the building/use permit an additional six (6) months.**
4. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this Ordinance. If the work described in any building permit has not been substantially completed within six (6) months of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Officer and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building/use permit has been issued. **If substantial progress has been made within six (6) months from the issuance of the permit but has not been completed, the Zoning Officer may extend the building/use permit and additional six (6) months.—A six (6) month extension may be granted one (1) time for a given building/use permit upon request of the applicant. Unless otherwise allowed by this Ordinance, in**

no instance shall the zoning officer authorize a building/use permit to expire greater than one (1) year from its original issue date.

Section 4.01.05 Building/Use Permit Process

1. The landowner requesting the Building/Use Permit shall complete an application for a building/Use permit, accompanied with the appropriate fee **available from the Administration Official**. Completed applications shall be returned to the Zoning Officer for review
2. ~~One copy of the application shall be returned to the applicant, after the Zoning Officer has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans.~~ **Issuance of a Building/Use Permit. If the proposed excavation alteration, construction, or change of use, as set forth in the application for a Building/Use Permit are in conformity with the provisions of this Ordinance, and other regulations of the County then in force, the Zoning Officer shall issue a building/use permit for such excavation, construction, alteration or change in use within a reasonable time from the date the application is submitted. If a building/use permit is refused, the Zoning Officer shall provide notice of such refusal to the applicant at the address indicated upon the application with the cause for denial. The Zoning Officer for county records shall retain one copy of the application, similarly marked.**
3. ~~The Zoning Officer shall then, if the applicant is approved, issue a signed building/Use permit. If the Zoning Officer determines the proposed action would not be in compliance with the provisions of these regulations, a building/Use permit may not be issued, and the applicant may then appeal the action of the Zoning Officer to the Board of Adjustment.~~
4. Building/Use permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, ~~or~~ repair, **occupancy, or change of use.**
5. ~~With application for a building/Use permit, the site must be clearly staked out and/or the Zoning Officer will examine plans that clearly indicate the structure to be erected or remodeled, or alterations of the existing structure.~~

CHAPTER 4.02 ZONING OFFICER

Section 4.02.01 Zoning Officer

The provisions of this Ordinance shall be administered and enforced by a County Zoning Officer appointed by the Board of County Commissioners, who shall have the power to make inspection of building or premises necessary to carry out his duties in the enforcement of this Ordinance.

Section 4.02.02 Duties

The powers and duties of the Zoning Officer shall be as follows:

1. Issue all building permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.

3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Provide public information relative to all matters arising out of this Ordinance.
8. Forward to the Planning Commission all applications for amendments to this Ordinance.
9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this ordinance.
10. For **Special** Permitted **Special** Uses, the Zoning Officer shall approve the application only in accordance with the provisions of the County's Zoning Ordinance and provide a report of Permitted Special Uses approved since the preceding meeting of the Board of Adjustment at the next meeting of the Board of Adjustment.
11. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning Commission. The Zoning Officer shall receive applications for Building Permits, Conditional Uses, Variances, and Zoning Amendments.
 - a. For building permits, the Zoning Officer shall approve the application only in accordance with the provisions of the County's Zoning Ordinance.
 - b. For Conditional Uses and Variances, the Zoning Officer shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or deny said application.
 - c. For Zoning Amendments, the Zoning Officer shall review the application, and shall make comments regarding said application to the Planning Commission and Board of County Commissioners.

Section 4.02.03. Right of Entry.

1. Whenever necessary to make an inspection to enforce any of the provisions of this regulation, or whenever the Zoning Officer or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises a regulation violation, the Zoning Officer or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Zoning Officer by this ordinance, provided that if such

building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Zoning Officer or an authorized representative shall have recourse to every remedy provided by law to secure entry.

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

Section 4.02.04. Stop Order

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

Section 4.02.045 Occupancy Violation.

Whenever any building or structure regulated by this ordinance is being used contrary to the provisions of this ordinance, the Zoning Officer may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such persons shall discontinue the use within the time prescribed after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this ordinance.

CHAPTER 4.03 BOARD OF ADJUSTMENT

Section 4.03.01 Establishment

Within Hamlin County outside of incorporated municipalities, the power and jurisdiction related to this article shall be executed by the Board of Adjustment.

1. The Board of Adjustment shall consist of seven (7) members--five district (5) members-One (1) member from District 1 - Castlewood/Hamlin Townships, One (1) member from District 2 - Oxford/Opdahl/Hayti Townships, One (1) member from District 3 - Brantford/Dixon/Garfield Townships, One (1) member from District 4 - Cleveland/Norden/Florence Townships, One (1) member from District 5 - Estelline/Dempster Townships, One (1) member from At-Large and One (1) County Commissioner. All Members of the Board of Adjustment shall be appointed by the County Commission. District members shall reside in the district they represent, the At-Large Member may reside anywhere in Hamlin County. District Members must reside outside of incorporated municipalities. The County Commission member of the Board of Adjustment may or may not reside outside an incorporated municipality. If no person from a district is willing to serve on the Board of Adjustment, the County Commission shall appoint a member to serve that district, as long as the member is a resident of Hamlin County.

The Board of County Commissioners shall appoint two (2) County Commissioners to serve as

alternates to the Board of Adjustment. If a Board of Adjustment member is unable to participate in a meeting, the alternate, and/or second alternate in turn, shall serve in the absent Board of Adjustment member's place. The term of the Alternates shall coincide with the term of the County Commissioner appointed.

2. All members of the Board of Adjustment, with the exception of appointed alternates, shall serve may be appointed to three (3) year terms, with varied terms beginning in 2006. District 3 and 5 shall serve a three (3) year term, District 2 and 4 shall serve a two (2) year term and District 1 and the At-Large Member shall serve a one (1) year term. After 2006 all terms shall be three (3) years.
3. Any member of the County Planning and Zoning Commission can be removed for cause, SDCL 11-2-3.
4. Each year in January the Planning and Zoning Commission shall elect a Chairperson, by majority vote, from the members duly appointed by the County Commission to serve on the County Planning and Zoning Commission. There is no limit to the number of years a member can serve as Chairperson. A quorum of the Board of Adjustment consists of four (4) members physical present or participating remotely.
5. The Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses in order to execute the purposes of this article. The Board of Adjustment shall take no action on any item at a meeting where a quorum of the Board is not physical present or participating remotely.
6. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the County Zoning Office and shall be public record. The Board of Adjustment shall keep record in minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact.
7. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. The Chairman, or in his or her absence the Acting Chairman, may administer oaths and compel the attendance of witnesses in order to execute the purposes of this article.

Section 4.03.02 Appeals, Record of Appeal, Hearing and Stays

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Official Officer, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Official Officer and that recourse from the decision of the Board of Adjustment shall be to the courts as provided by the laws of the State of South Dakota.
2. Appeals An appeal to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the Zoning Officer, to grant or deny the permit. No other appeal such as relating to a ministerial act or other preliminary act to

bring an application or matter before the Board of Adjustment for hearing and a final decision is authorized. Such appeals shall be taken within a reasonable time **not to exceed twenty-one (21) days,** as provided by the rules of the Board of Adjustment by filing with the Zoning Officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds **thereof of appeal** The Zoning Officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days.

3. An appeal stays all proceedings in furtherance of the action appealed from, **except ministerial or other preliminary acts necessary to allow consolidated appeals on all matters prior to final decision by the Board of Adjustment,** or unless the Zoning ~~Official~~ **Officer** from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.
4. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the office from whom the appeal is taken and on due cause shown.
5. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Officer or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map. At the hearing, any party may appear in person or by agent or attorney. **The Board of Adjustment shall decide the appeal within sixty (60) days of receiving a notice of appeal. Any party may appear at the hearing in person or by agent or by attorney**

Section 4.03.03 Power and Jurisdiction Relating to Administrative Review

The County Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Officer or other administrative officers in the carrying out or enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map.

Section 4.03.04 Board of Adjustment has Powers of Zoning Officer on Appeals: Reversing Decision of Zoning Officer

In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote **of two-thirds (2/3) five (5) of all** members of the Board of Adjustment **five (5) votes** shall be necessary to reverse any order, requirement, decision or determination upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

Section 4.03.05 (Reserved)

Section 4.03.06 Appeals to a Court of Record.

Any person or persons, jointly or severally, ~~aggrieved by any decision of the board of adjustment, or any taxpayer, landowner,~~ or any officer, department, board, or bureau of the County, ~~aggrieved by any decision of the Board of Adjustment may~~ present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Auditor ~~Board of Adjustment.~~ ~~The Board of Adjustment shall respond to the petition within thirty(30) days of receiving the notice of the filing and shall simultaneously submit the complete record of proceedings of the board appealed from, in the form of a return on a petition for writ, without need for a court order or formal issuance of writ.~~

~~A petitioner to the circuit court under this section shall pay all transcript costs required to complete the record of proceedings of the board appealed from.~~

CHAPTER 4.04 PROCEDURES FOR CONDITIONAL USES, ~~PERMITTED SPECIAL USES,~~ VARIANCES, AND ZONING AMENDMENTS

Section 4.04.01 Powers and Jurisdiction Relating to Conditional Uses

The County Board of Adjustment shall have the power to hear and decide, in accordance with the provisions of this Ordinance, requests for conditional uses or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether special conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance. A conditional use shall not be granted by the Board of Adjustment unless and until:

To hear and decide applications for conditional uses that are specified in this Ordinance and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.

1. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested.
2. The Zoning Officer shall ~~require the applicant for a conditional use permit to~~ notify adjacent property owners by certified or registered mail, ~~at the cost of the applicant,~~ of the conditional use permit ~~request or in lieu of this, obtain written consent from adjacent landowners.~~
3. Notice of hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.
4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
5. The ~~County~~ Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the

conditional use will not adversely affect the public interest.

6. **Before The** granting any conditional use **permit, by** the **County** Board of Adjustment shall **make be based upon** written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangements have been made concerning the following, where applicable:

a. ~~Entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.~~

b. ~~Off street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare or other effects of the conditional use on adjoining properties and properties generally in the district.~~

c. ~~Utilities refuse and service areas, with reference to locations, availability, and compatibility.~~

d. ~~Screening and buffering with reference to type, dimensions and character.~~

e. ~~Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.~~

f. ~~Required yards and other open space.~~

g. ~~General compatibility with adjacent properties and other property in the district.~~

a. Access:

i. The roads providing access to the property shall be determined to be adequate to meet the transportation demands of the proposed conditional use. The Board of Adjustment may require the applicant to enter into a written contract with the applicable road authority regarding the upgrading and continued maintenance of any roads used for conditional use requested prior to issuance of a Conditional Use Permit.

ii. Reasonable provisions have been made for safe vehicular and pedestrian entrance and exit of the property for daily and emergency traffic.

b. Parking and internal traffic:

i. The parking areas and driveways will be covered in materials appropriate for the internal traffic generated by the use.

ii. The number of parking spaces is appropriate for the proposed use of the property.

c. Utilities and refuse:

i. The manner by which electricity, water, sewer, natural gas, and other utilities will be provided has been described.

ii. Consideration has been given to the location of refuse and service areas and manner for disposing of trash, junk, or other debris.

d. Screening, buffering, and open space:

i. The type, dimensions, and character of any fences, walls, hedges, or other materials used for screening; and/or open space is appropriate for the proposed use in reference the specific property.

e. Lighting:

i. Lights associated with the use will not create a nuisance nor distract traffic.

ii. Brightness, intensity, glare of lights will be similar to lighting which would be customarily used for permitted uses in the applicable zoning district.

f. General compatibility with adjacent properties and other property in the district.

i. Any use listed as a Conditional Use is generally compatible in the district it is listed in.

ii. General compatibility is used when prescribing conditions for approval of a permit.

h.g. The roads providing access to the property are adequate to meet the transportation demands of the proposed conditional use. The Board of Adjustment may require the applicant to enter into a written contract with any affected township or other governmental unit regarding the upgrading and continued maintenance of any roads used for the conditional use requested prior to issuance of a Conditional Use Permit.

7. In granting any conditional use, the County Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation

8. ~~The concurring vote of five (5)~~ **The affirmative majority vote of the present and voting** members of the Board of Adjustment is required to pass any application for a Conditional Use **Permit**.

9. **Expiration of a Conditional Use Permit.** ~~A conditional use permit shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Board of Adjustment and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use may be granted by the Board of Adjustment.~~

a. Unless otherwise specified by the Board of Adjustment, a conditional use permit shall expire one (1) year from the date upon which it becomes effective if no actual construction has commenced. Upon written request to the Board of Adjustment and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use may be granted by the Board of Adjustment.

b. If a decision by the Board of Adjustment to grant a conditional use permit is appealed to circuit court the conditional use permit that was granted does not expire for a period of two years following completion of any final appeal of the decision.

10. The Board of Adjustment may, after notice and hearing, revoke a conditional use permit in the event of a violation of any of the conditions upon which such permit was issued. In addition, the conditional use permit may not be transferred during any violation.

11. Any alteration, construction, use of earthmoving equipment, or other change pursuant to a zoning permit or allowed land use on neighboring land that began after the date on which an application for a conditional use is received, and that causes the application to fail to meet one or more of the criteria or requirements for conditional use under the zoning ordinance, does not cause the request for a conditional use permit to be considered nonconforming until a final disposition of the conditional use request is determined pursuant to SDCL 11-2-61 or SDCL 11-2-65. If the conditional use permit is granted, the conditional use shall be considered a lawful use, lot, or occupancy of land or premises and may be continued even though the use, lot, or occupation does not conform to the provisions of the ordinance. If the conditional use is not pursued by the applicant for a period of more than one year, any subsequent use, lot, or occupancy of the land or premises shall conform with the zoning ordinance.

Section 4.04.02 Powers and Jurisdiction Relating to Variances

The County Board of Adjustment shall have the power, where, by reason of exception, narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of this Ordinance. A variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted, indicating the section of this Ordinance under which the variance is sought and stating the grounds on which it is requested.
2. The Zoning Officer ~~may require the applicant for a variance to~~ **shall** notify adjacent property owners by certified or registered mail of the variance request ~~or in lieu of this obtain written consent from adjacent landowners.~~
3. Notice of hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.
4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
5. The County Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.

- a. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Zoning Officer. A variance from the terms of this ordinance shall not be granted by the Board of Adjustments unless and until a written application for a variance is submitted demonstrating:
 - i. A written application for a variance is submitted demonstrating: (Reserved)
 - ii. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;
 - iii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - iv. That the special conditions and circumstance do not result from the actions of the applicant;
 - v. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
 - vi. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
 - vii. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
6. A variance which was previously granted by the Hamlin County Board of adjustment for a particular use, setback, or structure shall become null and void if at the time of a change in ownership, the variance for said use, setback, or structure has not been exercised by the original variance applicant. (Reserved)
7. A variance that is granted but not used within one (1) year shall be considered invalid unless an extension has been requested and approved by the Board of Adjustment. (Reserved)
8. If upon a change of ownership, a variance previously granted by the Hamlin County Board of Adjustment granting variance for a particular use or structure has not been exercised by the variance applicant, said variance shall become null and void. (Reserved)
9. In granting any variance, the County Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation Ordinance.
10. Under no circumstances shall the County Board of Adjustment grant a variance to allow a use not permissible under the terms of this regulation in the district involved, or any use expressly or by implication prohibited by the terms of this regulation in said district.

11. The concurring vote of ~~five (5)~~ **two-thirds (2/3) of all** members of the Board of Adjustment **(5 votes)** is required to pass any application for a variance.

12. Expiration of a Variance.

- a. **Unless otherwise specified by the Board of Adjustment,** A variance shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Board of Adjustment and prior to the variance expiration date, a one (1) year time extension for the variance may be granted by the Board of Adjustment.
- b. **If a decision by the Board of Adjustment to grant a variance is appealed to circuit court, the variance that is granted does not expire for a period of two (2) years following completion of any final appeal of the decision.**

Section 4.04.03 Zoning Amendments

1. Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the Planning Commission, as provided herein, the Board of County Commissioners may change zoning district boundaries, ~~use groups,~~ or the regulations established by this ordinance. A proposed change of zoning district boundaries or regulations may be initiated **in the following manners:**

~~by The Board of County Commissioners, the Planning Commission, or by application of one (1) or more of the owners of property within the area requested to be changed. However, no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published once ten (10) days prior to the date of the meetings as provided in South Dakota Compiled Laws Chapter 11-2, and its and Amendments.~~

- a. **The Board of County Commissioners may direct the Planning Commission, to consider a change of zoning district boundaries or regulations;**
- b. **The Planning Commission may initiate a change of zoning district boundaries or regulations;**
- c. **One (1) or more of the owners of property within the area requested proposed to be rezoned may present a request to change the zoning district boundaries;**
- d. **Initiated petitions specifying and requesting amendments to the regulations of this ordinance containing signatures of twenty (20) percent of the landowners in the zoning district or districts may be presented to the Zoning Officer.**

2. Unless otherwise provided for in these regulations, any change in these regulations, shall require Board of County Commissioners approval of an ordinance describing said changes. The Board of County Commissioners may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance amendment.

~~2.3.~~ The following procedure for requesting a Zoning Amendment or Zoning District Boundary Change shall be followed:

The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Zoning Officer. Completed applications shall be returned to the Zoning Officer for review. To be considered by the Planning Commission and Board of County Commissioners, the application form shall be completed and shall be accompanied by the following items:

- a. Any required attachments and fees, including Registered or Certified Mail.
- b. Any additional information, as requested by the Zoning Officer, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.
- c. The Zoning Officer shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.
- d. The Zoning Officer shall set the date, time, and place for public hearings to be held by the Planning Commission and Board of County Commissioners. The Zoning Officer shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to each board's (Planning, Board of County Commissioners) public hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Officer shall notify all owners of property within 250 feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.
- e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- f. The Planning Commission shall either recommend or not recommend approval of the amendment to the Board of County Commissioners.
- g. The Board of County Commissioners shall either approve or not approve the ordinance describing the proposed changes to these zoning regulations, in accordance with standard procedures for reading, approval, publication, and effective date.

~~h. When the Board of County Commissioners approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two thirds (4 votes) of the Board of County Commissioners.~~

~~Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within 250 feet of the area affected by the amendment.~~

- h. After passage the Ordinance Amendment shall take effect on the 20th day after its publication in the official newspaper of the County.

Section 4.04.04 Reapplication.

No application requesting a variance, conditional use, zoning amendment, or zoning district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission or Board of Adjustment before the expiration of six (6) months from the date of the final action of the Planning Commission, ~~or~~ Board of Adjustment **or Board of County Commissioners.**

Section 4.04.05 Procedures for Special Permitted Special Uses.

The Hamlin County Board of Adjustment has identified special conditions and safeguards applicable for certain uses called **Special Permitted Special** Uses. **The special permitted use procedure is an administrative review process, where** the Zoning Officer shall have the power to **review an application for conformance with the applicable standards and approval criteria and** issue **a Special Permitted Special Use permit.** ~~permits to applicants who meet the requirements set forth for a specific permitted special use.~~ Requests for permitted special uses may be granted if it has been determined that the prescribed conditions for a specific use have been met or assurance has been provided that the conditions will be met. A **Special Permitted Special use permit** shall not be granted by the Zoning Officer unless and until:

1. A written application for a **Special Permitted Special use permit** is submitted, indicating the section of this Ordinance under which the Permitted Special Use is sought and stating the grounds on which it is requested.
2. **The applicant shall deliver with the application signatures, by petition, of one hundred percent (100%) of the adjoining landowners. Applicant must also provide the signatures of two (2) Township Board Members to include the Township Chairman and one Supervisor, if the reduced setback is adjacent to a Township Road Right of Way. The Applicant must provide the signature of the County Highway Superintendent if the reduced setback is adjacent to a County Road Right of Way. Applicant must provide the signature of the Area Engineer if the reduced setback is adjacent to State DOT Road Right of Way. Applicant must provide the signatures of the Homeowners Association President and one Board Member if the reduced setback is adjacent to a Private Road Right of Way. The Zoning Officer shall review the application for conformance with this ordinance.**
3. Before granting any **Special Permitted Special use permit**, the Zoning Officer shall make written findings certifying compliance with the specific rules governing individual **Special Permitted Special** uses and that satisfactory provisions and arrangements have been made concerning the prescribed conditions for the specific **Special Permitted Special use permit.**
4. **If it is determined that additional conditions and safeguards are required by the Zoning Officer for the approval of the Permitted Special use in conformity with this regulation, If the application does not meet all of the performance standards for the special permitted use,** or the applicant fails to meet any of the prescribed conditions or safeguards; **the Zoning Officer shall determine that the application is not in conformance with Section 4.04.05 and appropriate special permitted use standards. The applicant may appeal the decision of the Zoning and** the Board of Adjustment may approve or deny the request in accordance with their powers and jurisdiction relating to conditional uses (see section 4.04.01).

5. If the Zoning Officer determines that the application is in conformance with the prescribed performance standards, the Zoning Officer shall make written findings certifying compliance with the specific standards governing the specific special permitted use permit and that satisfactory provisions and arrangements have been made concerning the prescribed conditions for the specific special permitted use permit. The Zoning Officer shall then issue the special permitted use permit subject to the applicant agreeing to any conditions prescribed by this ordinance or the Zoning Officer for the specific special permitted use permit. The Zoning Officer shall then issue any other associated building/use permits. The Zoning Officer shall provide a report of Special Permitted Special use permits issued since the preceding meeting of the Board of Adjustments at each meeting of the Board of Adjustments. Failure to report any such permit may result in the revocation of said Special Permitted Special use permit.
6. Violation of such conditions and safeguards provided herein shall be deemed a violation of this regulation and punishable under the terms of this regulation. A special permitted use permit shall expire one (1) year from the date upon which it becomes effective if no actual construction has commenced. Upon written request to Zoning Officer and prior to the special permitted use expiration date, a one (1) year time extension for the special permitted use may be granted by the Zoning Officer.
7. If a decision by the Zoning Officer to issue a special permitted use permit is appealed to circuit court the special permitted use permit that was granted does not expire for a period of two years following completion of any final appeal of the decision.

Section 4.04.06 Duties of Planning Commission

The Planning Commission shall have the following duties:

1. Comprehensive Land Use Plan:

The Planning Commission may prepare, or cause to be prepared, a comprehensive plan (Plan) for the county including those municipalities within the county which are either unincorporated or which have requested by resolution of the governing board of such municipality to be included. Upon preparation the Planning Commission shall make recommendation to the Board of County Commissioners subject to SDCL11-2-18.

2. Zoning Ordinance:

To develop and recommend a zoning ordinance, in accordance with the Plan, for the regulation of the height, area, bulk, location, and use of private and public structures and premises, and of population density as may be provided by SDCL 11-2-13 and 11-2-14. Upon preparation the Planning Commission shall make recommendation to the Board of County Commissioners subject to SDCL11-2-18.

3. Subdivision:

a. To develop and recommend regulations governing the subdivision of land within Hamlin County.

- b. To review proposals for subdivision to determine whether such subdivisions comply with the subdivision ordinance of Hamlin County and make recommendation to the Board of County Commissioners relating to the approval of subdivisions.

4. Amendments:

The Planning Commission may from time to time propose and make recommendation on amendments to the comprehensive land use plan, zoning ordinance, and subdivision regulations subject to SDCL 11-2-28.

5. Procedures for Meetings.

- a. The members of the Planning Commission shall select one (1) of their members as Chairperson and another as Vice-chairperson, who shall act as Chairperson in the Chairperson's absence. Both shall serve one (1) year and until their successors have been selected. Meetings of the Planning Commission shall be held at the call of the Chairperson and at such times as the Commission shall determine.
- b. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses in order to execute the purposes of this article.
- c. All meetings of the Planning Commission shall be open to the public and conducted in accordance with the rules established by the Planning Commission. The Planning Commission shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the Hamlin County Zoning Officer and shall be public record. The Planning Commission shall keep record in the minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact.
- d. A simple majority vote of a quorum of members of the Planning Commission in attendance is required to forward a recommendation, pertaining to its duties described in 4.04.06, on to the Board of County Commissioners.