

ORDINANCE NO. _____

**AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE TOWN OF BRANDT, SOUTH DAKOTA,
AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN
ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-4 AND 11-6, 1967 SDCL, AND AMENDMENTS
THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith**

WHEREAS Chapters 11-4 and 11-6, 1967 SDCL, empower the Town of Brandt, hereinafter referred to as the Town, to enact a zoning ordinance for all land within the corporate limits of the Town and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Brandt Town Board, hereinafter referred to as the Town Board, deems it necessary for the purpose of promoting the health, safety, morals, and general welfare of the Town to enact such an ordinance, and

WHEREAS, the Town Board has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the Town into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and in such a manner as to lessen congestion in the streets, to secure safety from fire, panic, and other dangers; to promote the health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings, and encouraging the most appropriate uses of land throughout the municipality, and

WHEREAS, the Planning Commission has made a preliminary report and held public hearings thereon, and submitted its final report to the Town Board, and

WHEREAS, the Town Board has given due public notice of hearings relating to zoning districts, regulations, and restrictions; and has held such public hearing, and

WHEREAS all requirements of Chapters 11-4 and 11-6, 1967 SDCL, and amendments thereto, with regard to the preparation of the report of the Planning Commission and subsequent action of the Town Board have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE TOWN OF BRANDT:

TOWN BOARD PRESIDENT	DATE	ATTEST FINANCE OFFICER	DATE
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**ARTICLE I
GENERAL PROVISIONS**

CHAPTER 1.01 TITLE AND APPLICATION.

Section 1.01.01 Title.

This Ordinance shall be known and referred to as “The Zoning Ordinance of the Town of Brandt, South Dakota.”

Section 1.01.02 Jurisdiction.

The provisions of this ordinance shall apply to all territory within the boundaries of the Town of Brandt, South Dakota, as established on the Official Zoning Map of the Town of Brandt.

Section 1.01.03 Purpose.

The Zoning Ordinance is enacted for the purpose set forth and provided for in South Dakota Compiled Laws and Amendments, Chapters 11-4 and 11-6, that is, among other things to promote health, safety, morals, or the general welfare of the community.

This ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the Town and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

- A. To assist in the implementation of the Town of Brandt’s Comprehensive Land Use Plan which in its entirety represents the foundation upon which this Ordinance is based.
- B. To foster a harmonious, convenient, workable relationship among land uses.
- C. To promote the stability of existing land uses that conform with the Land Use Plan and to protect them from inharmonious influences and harmful intrusions.
- D. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole.
- E. To prevent excessive population densities and overcrowding of the land with structures.
- F. To foster the provision of adequate off-street parking and off-street truck loading facilities.
- G. To facilitate the appropriate location of community facilities and institutions.
- H. To protect and enhance real estate values.
- I. To safeguard and enhance the appearance of the community, including natural amenities.

- J. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the comprehensive land use plan.
- K. To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes.
- L. To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of building, structures, and land.

CHAPTER 1.02 ORDINANCE PROVISIONS

Section 1.02.01 Provisions of Ordinance Declared to be Minimum Requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants; the most restrictive or that imposing the higher standards shall govern.

Section 1.02.02 Violations/Penalties for Violation.

Violations of the ordinance shall be treated in the manner specified below.

1. Any person who starts work for which a permit, Board of Adjustment or Town Board action (building permit, conditional use permit, special permitted use, variance, rezoning) is required by this zoning ordinance, without first securing such permit or Board of Adjustment or Town Board action and paying the prescribed fee, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.
 - a. Upon finding such violation, the Administrative Official shall notify the owner of the property involved of the requirement that a permit, Board of Adjustment or Town Board action be obtained. If application for said permit, Board of Adjustment or Town Board action is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the permit, Board of Adjustment or Town Board action plus the cost of the postage for mailing the aforementioned notice.
 - b. If application for said permit, Board of Adjustment or Town Board action is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated permit, Board of Adjustment or Town Board action plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (2) below.
 - c. Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.

2. It is declared unlawful for the owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the Town Board pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be five hundred dollars (\$500.00), or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the Town.
3. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or structure or land is used in violation of this Ordinance or other regulation the Administrative Official, or the Town of Brandt, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.
4. Any taxpayer of the Town may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.03 Separability Clause.

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

Section 1.02.04 Repeal of Conflicting Ordinances.

All ordinances or part of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are repealed entirely.

Section 1.02.05 Effective Date.

This Ordinance shall be in full force and effect from and after its approval, publication, and effective date according to South Dakota Codified law.

CHAPTER 1.03. OFFICIAL ZONING MAP

Section 1.03.01 Official Zoning Map.

The Town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Town Board President attested by the Town Finance Officer under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number [REDACTED], as amended of the Town of Brandt, State of South Dakota," together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the Town Finance Officer.

If, in accordance with the provisions of this Ordinance and Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the Town Finance Officer or in his/her absence a person designated by the Town Board. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 1.02. Section 1.02.02.

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

Section 1.03.02. Rules Where Map Designation Uncertain.

Where uncertainty exists with respect to the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. The district boundaries are streets or alleys, highways, rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines, or full section lines, unless otherwise shown.
2. Where the designation on the Official Zoning Map indicates the various districts are approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.
3. In subdivided property, the zoning district boundary line on the Official Zoning Map may be determined by use of the scale contained on the map.

Section 1.03.03 Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the Town of Brandt shall be automatically placed into the "A" Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.04, Section 3.04.07 of these regulations.

Section 1.03.04 Changes and/or Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, or lost, the Town Board may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Town Board President attested by the Town Finance Officer and bearing the seal of the Town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the Town of Brandt, State of South Dakota."

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

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

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.07 of these regulations

**ARTICLE II
DISTRICT REGULATIONS**

CHAPTER 2.01 APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01 Applicability of Regulations.

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

Section 2.01.02 Compliance; Generally.

No building, or any part thereof shall hereafter be used or occupied, and no building or any part thereof shall hereafter be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose permitted in the Zoning District in which said building or premise is located, except as hereinafter provided.

Section 2.01.03 Structures & Lots; Construction or Alteration; Limitations of.

1. No building or other structure shall hereafter be erected or altered to exceed the height or bulk; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; nor to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
2. 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 or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

CHAPTER 2.02 NON-CONFORMING USES

Section 2.02.01 Intent.

Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use. Which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance.

Section 2.02.02 Repairs and Maintenance

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

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

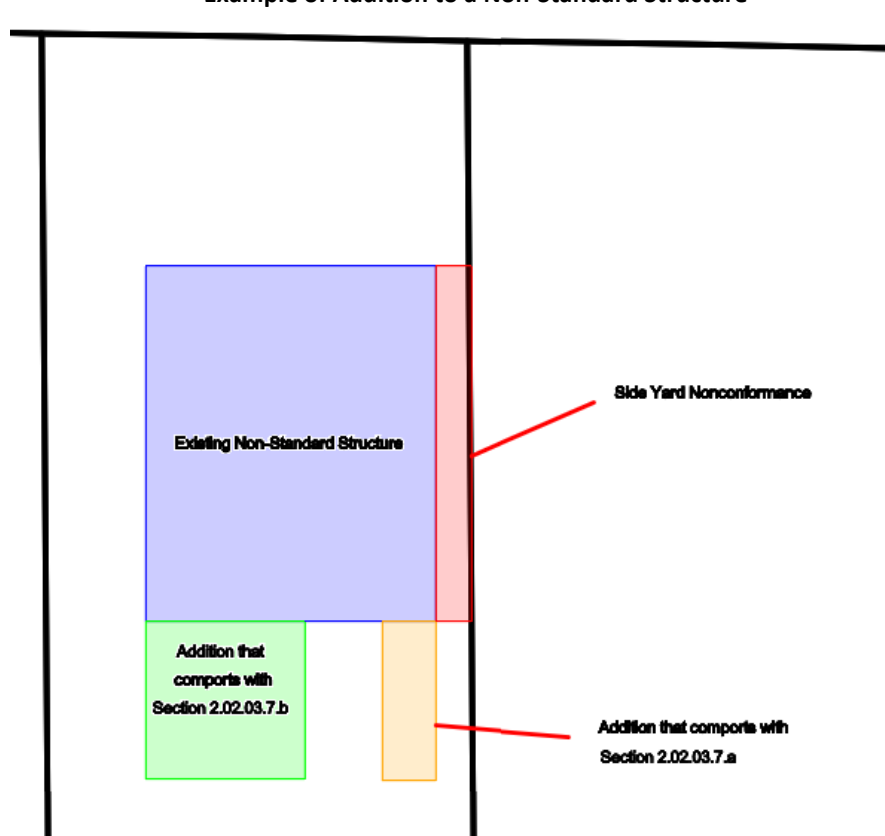
Section 2.02.03 Uses and Structures.

A lawful use or structure existing at the time this ordinance is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

1. Whenever a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.
2. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding fifty (50) percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.
3. When a nonconforming use or structure is discontinued for a period of one (1) year, it shall not be continued unless in conformance with the requirements of this ordinance and SDCL 11-6-39.
4. Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this ordinance, but shall not be extended outside each structure.
5. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use, special permitted use or conditional use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.

6. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the existing Type I and/or Type II Manufactured Home, then application must first be made to the Board of Adjustment for a conditional use permit.
7. Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:
 - a. The Administrative Official may allow the structural alteration, addition (enlargement or extension) of a non-standard structure provided such alteration(s) or addition(s) will be erected no closer to the lot line than the existing building's current non-conforming setback and the addition shall further conform to all other ordinance requirements. (See Figure 2.02.03 below)
 - b. The Administrative Official may allow the structural alteration, addition (enlargement or extension) of a non-standard structure provided such alteration(s) or addition(s) conforms to all other ordinance requirements. (See Figure 2.02.03 below)
8. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the Planning Commission/Board of Adjustment as set forth elsewhere in this Ordinance.

**Figure 2.02.03
Example of Addition to a Non-Standard Structure**



Section 2.02.04. Uses Under Conditional Use Provisions Not Non-Conforming Uses.

Any use which is permitted as a Conditional Use in a district under the terms of this Ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

Section 2.02.05 Nonconforming Lots of Record.

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

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this ordinance.

CHAPTER 2.03 DISTRICT REGULATIONS

Section 2.03.01 Generally

The district regulations included in this Chapter may be qualified or supplemented by additional regulations appearing elsewhere in this ordinance.

Any use or uses not expressly permitted in a particular district shall be prohibited unless such uses exist at the effective date of these regulations and qualify as nonconforming uses.

Deviation from zoning district lot, yard, and related requirements, and deviation from Town-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.03 of these regulations.

The Board of Adjustment may establish additional requirements and standards for uses and structures permitted by Conditional Use Permit in accordance with Section 3.04.02.

Section 2.03.02 Zoning Districts.

The following zone and use districts are hereby established for the purposes of administration and enforcement of this ordinance.

- A Agricultural District
- R1 Residential District
- C1 Central Commercial District
- HC Highway Commercial District
- I Industrial District

The following district shall be designated as a zoning overlay district, imposing special regulations on the properties that fall within these overlay districts without abrogating the requirements imposed by the underlying land use district regulations:

- FP Flood Plain District

CHAPTER 2.04 "A" - AGRICULTURAL DISTRICT

Section 2.04.01. Intent.

The intent of the "A" Agricultural District is to preserve open space and land currently used for agricultural purposes. This land is considered not yet ready for further development until the installation of drainage works, streets, utilities, and community facilities and until objective projections of appropriate land uses are possible

Section 2.04.02. Permitted Uses.

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

1. Any form of agriculture activity and related farm buildings, but excluding feed lots;
2. Site-built single-family dwellings;
3. Modular homes and Type I manufactured home;
4. Public parks and recreation areas;
5. Essential public utilities and services

Section 2.04.03 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, special permitted uses or conditional uses and structures when established within the space limits of this district.
2. Roadside stands for sales of agricultural products grown or produced on the premises.
3. Signs conforming to Chapter 4.04;
4. Home occupations subject to Chapter 4.19;

Section 2.04.04 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "A" Agricultural District.

1. Shop-style dwellings subject to Chapter 4.22

Section 2.04.54 Conditional Uses:

The following uses may be permitted, as a Conditional Use in the “A” Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Type II manufactured homes
2. Airports;
3. Cemeteries;
4. Commercial or private recreation areas not normally accommodated in commercial areas such as golf courses, campgrounds, drive in theatres, riding stables, racetracks, swimming pools, etc.;
5. Private clubs;
6. Public buildings or facilities erected or established and operated by any governmental agency;
7. Telecommunication facilities;
8. Commercial stables and kennels;
9. Veterinarian offices and animal hospitals;
10. Commercial storage buildings or private storage buildings used exclusively for storage and not for performance of any other services
11. Extended Home Occupation subject to Chapter 4.15.
12. Commercial Nurseries and greenhouses.

Section 2.04.06. Prohibited Uses:

All uses and structures not specifically permitted or not permitted by special permitted use or conditional Use shall be prohibited in the “A” Agricultural District.

Section 2.04.07. Area Regulations.

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

Table 2.04.07.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential/Type I & II Manufactured Home /Modular Home	43,560 square feet	150'	35'	10%
Towers or Steeples	To be determined by the Board of Adjustment		75'	NA
Principal building excluding tower or steeple			45'	10%
Other Permitted Uses/ Conditional Uses	To be determined by the Board of Adjustment			

Table 2.04.07.2

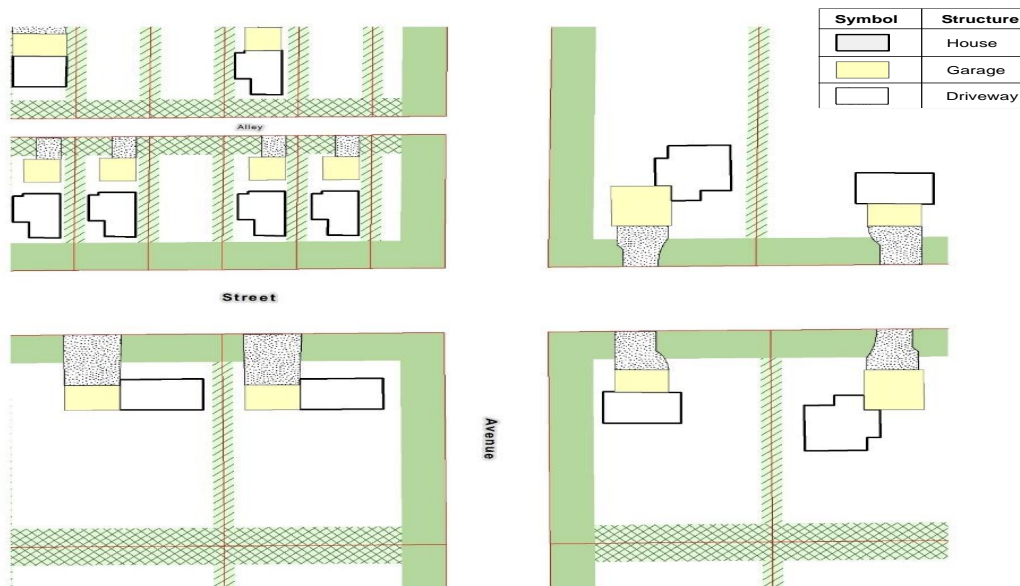
	Minimum Front Yard %		Minimum Rear Yard **	Minimum Side Yard *
	Primary*	Secondary*		
SYMBOL				
Permitted Uses	75'	37.5'	50'	30'
Other Permitted Uses/ Conditional Uses	To be determined by the Board of Adjustment			

* To be measured from the wall line. The setback requirements on all required yards includes an allowable overhang of 24 inches or less.

% For the purpose of this ordinance a porch and overhang shall be deemed to be part of said building except as provided for by Article V, Definitions "Yard, Front".

Accessory structures may be placed within ten (10) feet of an alley.

Figure 2.04.07.1



CHAPTER 2.05 “R1” GENERAL RESIDENTIAL DISTRICT

Section 2.05.01 Intent.

The Intent of the “R1” General Residential District is to permit the development of a broad variety of housing types including single-family, two-family, multiple-family, and manufactured home development. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible uses and facilities.

Section 2.05.02 Permitted Uses:

The following uses and structures shall be permitted in the “R1” General Residential District:

1. Site-built single-family dwellings;
2. Modular homes;
3. Type I manufactured homes;
4. Public and parochial schools
5. Public park and recreation areas;
6. Essential public utilities and services required by the resident population;
7. Churches and other religious institutions.
8. Public buildings or facilities erected or established and operated by any governmental agency.

Section 2.05.03. Permitted Accessory Uses:

The following accessory uses and structures shall be permitted in the “R1” General Residential District:

1. Accessory uses and structures customarily incidental to permitted uses, special permitted uses or conditional uses and structures when established within the space limits of this district, except stables;
2. Signs conforming to Chapter 4.04;
3. Home occupations subject to Chapter 4.19.

Section 2.05.04 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the “R1” General Residential District.

1. Shop-style dwellings subject to Chapter 4.22

Section 2.05.05. Conditional Uses:

The following uses may be permitted as a Conditional Use in the “R1” General Residential District by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Type II manufactured home;
2. Two-family dwellings;
3. Multiple family dwellings;
4. Bed and breakfast establishments subject to Chapter 4.20;
5. Licensed commercial day care facilities;
6. Extended home occupation subject to Chapter 4.15;
7. Private storage buildings used exclusively for storage and not for performance of any other services;
8. Group Home;
9. Offices of recognized professions providing such profession is carried on in their respective residence, and there is no display nor advertising except one sign, non-illuminated, and mounted flat against the wall of the principle building;

Section 2.05.06. Prohibited Uses:

All uses and structures not specifically permitted or not permitted by special permitted use or conditional Use shall be prohibited in the “R1” Single-Family Residential District.”

Section 2.05.07 Area/Construction Regulations.

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

Table 2.05.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential/Type I & II Manufactured Home /Modular Home	6,000 square feet	50'	35'	35%
Two Family Dwelling (A)	6,000 square feet/dwelling unit	100'	35'	40%
Multiple Family Dwelling Units (A)	12,000 plus 1,000 square feet for each dwelling unit over two (2)	100'	45'	40%
Assisted Living, Nursing and Rest Homes, etc.	2,000 square feet/dwelling unit	60'	35'	40%
Churches and other religious institutions established after January 1, 2023	30,000 square feet	75'	35'*	30%
Other Permitted Uses/ Conditional Uses	To be determined by the Board of Adjustment			

A. At the time of construction, lot area and width shall comply with these requirements. In order to obtain future building permits for replacement, additions, expansions, etc., each respective unit shall maintain the minimum lot area and lot width for single family residences after subdivision of individually owned units. Where individually owned, attached single-family units (i.e., Condominium, townhouse, duplex, etc.) are constructed, minimum lot area, width, and coverage are calculated on the basis of the lot upon which the shared structure is constructed.

* Maximum height for steeples and towers shall be seventy-five (75) feet

Table 2.05.06.2

	Minimum Front Yard*%		Minimum Rear Yard*#	Minimum Side Yard*	
	Primary	Secondary**		Party Wall Side	Non-Party Wall Side
SYMBOL					
Single Family Residential/Type I & II Manufactured Home /Modular Home	20'	12.5'	10'	7'	
Two Dwelling Units (A)	25'	12.5'	15'	0'	7'
Multiple Family Dwellings	30'	15'	25'	0'	10'
Hospitals, convalescent and nursing homes, supervised care facilities and congregate housing;	50'	25'	25'	0'	25'
Churches and other religious institutions established after January 1, 2023	50'	25'	25'	0'	25'
Other Permitted Uses/ Conditional Uses	To be determined by the Board of Adjustment				

* To be measured from the wall line. The setback requirements on all required yards includes an allowable overhang of 24 inches or less.

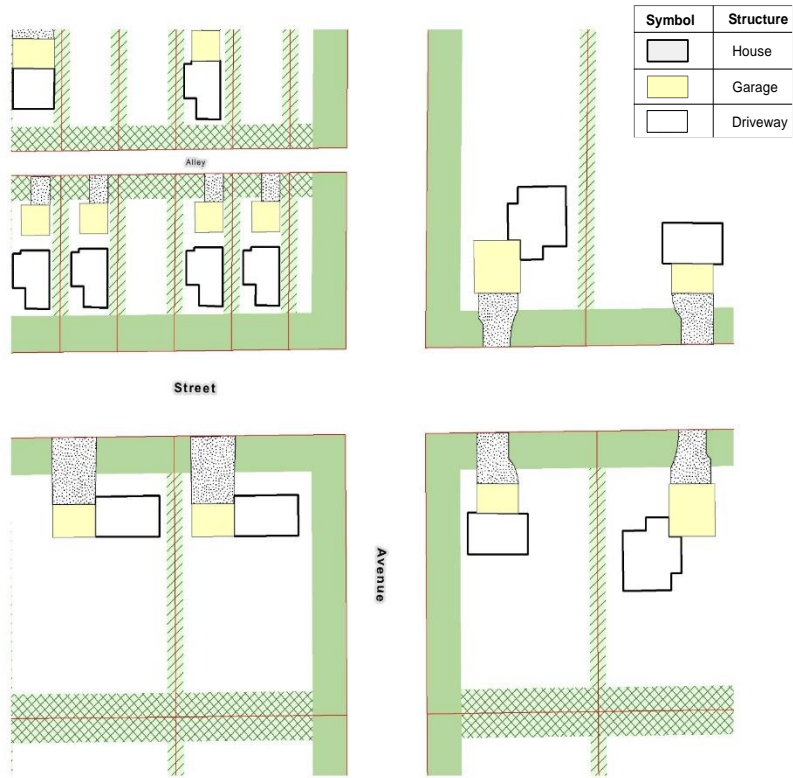
% For the purpose of this ordinance a porch and overhang shall be deemed to be part of said building except as provided for by Article V, Definitions "Yard, Front".

Accessory structures may be placed within ten (10) feet of an alley.

** When a setback distance greater or lesser than twenty-five (25) feet has been established setback distance of has been established in any block, then no building shall approach nearer than any street line than the general average of the setback distance as determined by the Administrative Official. At no time will the setback be less than twelve and one-half (12.5) feet.

A. Upon subdivision into individual units, two family dwellings will be allowed one "shared" wall (required yard = zero (0) feet) provided all other yard requirements are met.

Figure 2.05.06.1



CHAPTER 2.06 "C1" CENTRAL COMMERCIAL DISTRICT

Section 2.06.01 Permitted Uses:

The intent of the "C1" Central Commercial District is to provide commercial areas for business establishments serving the needs of trade area residents, Permitted uses are intended to create a strong central business district, free from conflicting land uses, which is the focal point of trade area retail sales, personnel, business and professional services, governmental and cultural activities.

Section 2.06.02 Permitted Uses:

The following uses and structures shall be permitted in the "C1" Central Commercial District:

1. Retail and wholesale sales;
2. Finance, insurance, and real estate services;
3. Business services excluding any warehousing and storage services;
4. Churches, welfare, and charitable services; business associations, professional membership organizations, labor unions, and similar labor organizations, and civic, social and fraternal associations;
5. Eating establishments;
6. Essential public utilities and services required by the resident population;
7. Public buildings and grounds;
8. Personal service establishments;
9. Professional, governmental and education services;
10. Bar/Tavern
11. On-sale/off-sale liquor establishments;
12. Printing and publishing establishments;
13. Offices;
14. Parking lot and/or parking garages;
15. Bed and breakfast;
16. Filling stations and convenience stores;
17. Greenhouses;

18. Indoor commercial recreation facility;

Section 2.06.03 Permitted Accessory Uses:

The following accessory uses and structures shall be permitted in the “C1” Central Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses.
2. Signs conforming to Chapter 4.04.

Section 2.06.04 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the “C1” Central Commercial District.

1. Reserved.

Section 2.06.05 Conditional Uses.

The Board of Adjustment, subject to such requirements, may permit the following uses as a Conditional Use in the “C1” Central Commercial District as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Lumberyards;
2. Car washes;
3. Licensed day care centers;
4. Hotel/motel;
5. Apartments;
6. Implement and automobile sales, service, and repairs;
7. Contractor shops with or without office;
8. Private and Commercial storage buildings used exclusively for storage and not for performance of any other services;
9. Telecommunication facilities;
10. Garages, repair shops, and service stations;

Section 2.06.05 Prohibited Uses:

1. All uses and structures not specifically permitted or not permitted by special permitted use or conditional use shall be prohibited in the "C1" Central Commercial District.




Section 2.06.07 Area Regulations/Construction Requirements.

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

Table 2.06.07.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	3,500 square feet	25'	40'	90%
Conditional Uses	To be determined by the Board of Adjustment			



Table 2.06.07.2

	Minimum Front Yard*	Minimum Rear Yard*		Minimum Side Yard*
		Adjacent to Industrial, Ag, Commercial Districts; or Alleys	Adjacent to and Shared with Residential Districts	
Symbol				
Permitted Uses	0'	0'	30'	0'
Conditional Uses	To be determined by the Board of Adjustment			

* To be measured from the wall line. The setback requirements on all required yards to include an allowable overhang of 24 inches or less.

Figure 2.06.07.1



Symbol	Structure
	Business
	Parking/ Driveway

2. Screening - Where any use in the "C-1" Central Commercial District is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01.

CHAPTER 2.07 “HC” COMMERCIAL INDUSTRIAL DISTRICT

Section 2.07.01 Permitted Uses:

The following uses and structures shall be permitted in the “HC” Commercial Industrial District:

1. Horticulture and the raising of field crops;
2. Automobile sales, service stations and convenience stores;
3. Financial institutions, offices, clinics;
4. Essential public utilities and services;
5. Wholesale or retail sales of: lumber and other building materials, farm equipment, motor vehicles, marine crafts, manufactured homes, trailers, farm and garden supplies, fuel and ice; motor vehicles and automobile equipment; drug , chemicals, all allied products; dry goods and apparel; groceries, and related products; electrical goods, hardware, plumbing, heating and equipment and supplies; machinery, equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials;
6. Sale of general farm products, and farm services, household goods, implement and farm equipment repair or maintenance;
7. Funeral home;
8. Private and Commercial storage buildings used exclusively for storage and not for performance of any other services;
9. Truck or bus terminal;
10. Wholesale merchandising or storage warehouse;
11. Hotel/motel;
12. General service and repair of household appliances;
13. Personal services;
14. Professional, governmental and education services;
15. Car washes;
16. Telecommunication facilities;
17. Cannabis Dispensary Subject to Chapter 4.23

Section 2.07.02 Permitted Accessory Uses:

The following accessory uses and structures shall be permitted in the “HC” Commercial Industrial District.

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses.
2. Signs conforming to Chapter 4.04.

Section 2.07.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the “HC” Commercial Industrial District.

1. Reserved.

Section 2.07.04 Conditional Uses

The following uses may be permitted as a Conditional Use in the “HC” Highway Commercial District” by the Board of Adjustment, subject to such requirements as the Board deems necessary.

1. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors;
2. Caretaker’s residence in accordance with Chapter 4.18;
3. Bulk fuel or storage of petroleum products for wholesale;
4. Adult Uses
5. Contract construction services with shop and/or yard;

Section 2.07.05 Prohibited Uses:

All uses and structures not specifically listed as Permitted Uses, Special Permitted Uses, accessory uses, or Conditional Uses shall be prohibited in the “HC” District.






Section 2.07.06 Area/Construction Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables and figures:
2. Screening - Where any use in the “HC” Highway Commercial District is adjacent to any Residential Zone, that use (building, parking, or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01

Table 2.07.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	20,000 square feet	100'	45'	75%
Conditional Uses	To be determined by the Board of Adjustment			



Table 2.07.06.2

	Minimum Front Yard*	Minimum Rear Yard*		Minimum Side Yard*	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts
Symbol					
Permitted Uses	25'	20'	40'	10'	40'
Conditional Uses	To be determined by the Board of Adjustment				

* To be measured from the wall line. The setback requirements on all required yards to include an allowable overhang of 24 inches or less.

Figure 2.07.06.1



Symbol	Structure
	Business
	Parking/ Driveway

CHAPTER 2.08 "I" – INDUSTRIAL DISTRICT

Section 2.08.01 Intent:

The intent of the "I" Industrial District is to accommodate industrial uses meeting performance standards designed to protect nearby non-industrial uses from adverse environmental conditions, and to accommodate certain other business uses.

Section 2.08.02 Permitted Uses:

The following uses and structures shall be permitted in the "I" Industrial District:

1. Horticulture and the raising of field crops;
2. Private and Commercial storage buildings used exclusively for storage and not for performance of any other services;
3. Essential public utilities and services;
4. Motor freight terminals, garaging and equipment maintenance;
5. Storage plants, lumber yards, distributing stations and warehouses;
6. Light manufacturing and assembly work, machine shops doing assembling or shaping and light cutting and sampling;
7. Woodworking shops or plants;
8. Wholesale merchandising or storage warehouse.
9. Telecommunication facilities.
10. Grain Elevator
11. Carwash

Section 2.08.03 Permitted Accessory Uses:

The following accessory uses and structures shall be permitted in the "I" Industrial District:

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses;
2. Signs conforming to Chapter 4.04

Section 2.08.04 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the “I” Industrial District.

1. Caretaker and watchman quarters in accordance with Chapter 4.18

Section 2.08.05 Conditional Uses:

The Board of Adjustment may permit the following uses as a Conditional Use, subject to such requirements, as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment;
2. Adult Uses;
3. Explosive manufacture or storage;
4. Fertilizer manufacture;
5. Contract construction services with shop and/or yard;

Section 2.08.06 Prohibited Uses:

All uses and structures not specifically listed as Permitted Uses, Special Permitted Uses, accessory uses, or Conditional Uses shall be prohibited in the “I” District.




Section 2.08.07 Area Regulations:

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

Table 2.08.07.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	30,000 square feet	150'	45'	50%
Conditional Uses	To be determined by the Board of Adjustment			

Table 2.08.07.2

	Minimum Front Yard*	Minimum Rear Yard*		Minimum Side Yard*	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts
Symbol					
Permitted Uses	50'	25'	35'	10'	35'
Conditional Uses	To be determined by the Board of Adjustment				

* To be measured from the wall line. The setback requirements on all required yards to include an allowable overhang of 24 inches or less.

Figure 2.08.07.1



Section 2.08.08 Screening Regulations:

1. Outdoor Storage and Screening. Where any use in the “I” Industrial District is adjacent to any Residential Zone, that use (building, parking, or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01

All outdoor storage within five hundred (500) feet of a residential District must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stockpile which fence shall be maintained in safe and good repair;

Storage yards for junk shall be set back a minimum of one hundred (100) feet from any adjoining street line and thirty-five (35) feet from any other property line, and shall be screened by a solid wall at least two (2) feet above the highest stockpile and maintained in a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an “I” Zone that is within five hundred (500) feet of a residential zone.

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

Section 2.08.09 Performance Standards

1. **Noise.** All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. **Air Pollution.** State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. **Odor.** The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. **Glare, Heat or Radiation.** Every use shall be so operated that there is no emission or heat, glare, or radiation visible or discernable beyond the property line.
5. **Vibration.** Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. **Sewage and Liquid Wastes.** No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radio-active nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.

7. **Fire Hazard.** All flammable substances involved in any activity or use shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the Town Board.
8. **Physical Appearance.** All operations shall be carried on within an enclosed building except that new or operable equipment and waste materials stored in enclosed containers, not readily visible from the street, may be displayed or stored in the open.

CHAPTER 2.99 FLOOD DAMAGE PREVENTION REGULATIONS.

Section 2.99.01. Statutory Authorization, Findings of Fact, Purpose and Methods of Reducing Flood Losses.

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapter 11-4 delegated the responsibility to local governmental units to adopt land use regulations designed to promote the public health, safety, and general welfare of its citizenry through flood plain and land use regulation. Therefore, the Town Board of the Town of Brandt, South Dakota, ordains as follows:

The Town of Brandt elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program (NFIP) is a voluntary program administered by the Federal Emergency Management Agency (FEMA), a component of the U.S. Department of Homeland Security, and the Town of Brandt's community officials have elected to join the program, participate and enforce these flood damage prevention regulations to areas not identified as Special Flood Hazard Areas (SFHAs) by FEMA on the community's effective Flood Insurance Rate Map (FIRM), if the community has documentation to support that there is an inherent risk of flooding in such areas.

2. Findings of Fact

- a. The flood hazard areas of the Town of Brandt are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the inhabitants of the Town of Brandt.
- b. These potential flood losses are caused by:
 - i) The cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities;
 - ii) The occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage; and
 - iii) Uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

3. Statement of Purpose. It is the purpose of this Ordinance to promote the public health safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- a. To protect human life and health.
- b. To minimize expenditure of public expenditures flood control projects.

- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 - d. To minimize prolonged business interruptions caused by flooding.
 - e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
 - f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
 - g. To ensure that potential buyers are notified that property is in an area of special flood hazard.
4. Methods of Reducing Flood Losses. In order to accomplish its purpose, this Ordinance includes methods and provisions for:
- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in times of flooding, or cause excessive increases in flood heights or velocities;
 - b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
 - d. Controlling filling, grading, dredging, and other development which may increase flood damage.
 - e. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

Section 2.99.02. Definitions.

In addition to the Definitions in Article II of this ordinance, unless specifically defined below, words or phrases used in Chapter 2.99 shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application. The definitions contained in Section 2.99.02 shall supersede the definitions in Article II of this ordinance only in the interpretation of Chapter 2.99 of this ordinance. In all other cases where these definitions conflict with the definitions in Article II, the definitions in Article II shall apply.

100-Year Flood means a flood having a recurrence interval that has a 1-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms “100-hundred-year flood” and “1-percent-annual-chance flood” are synonymous. The term does not imply that the flood will necessarily happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

100-Year Floodplain means the area of land susceptible to being inundated due to the occurrence of a 1-percent-annual-chance flood.

500-Year Flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will necessarily happen once every 500 years and mandatory flood insurance requirement generally does not apply.

500-Year Floodplain means the area of land susceptible to being inundated due to the occurrence of a 0.2-percent-annual-chance flood.

Accessory Structure is a structure that is on the same parcel of property as a principal structure. Its use is incidental to the use of the principal structure the ownership of the accessory structure is the same owner as of the principal structure. An accessory structure is a non-residential structure of low value that is used solely for the parking of vehicles and storage of tools, materials, or equipment. No human habitation is allowed within an accessory structure.

Addition is any improvement that expands the enclosed footprint or increases the square footage of an existing structure. This includes lateral additions added to the side, front, or rear of a structure; vertical additions added on top of a structure; and enclosures added underneath a structure.

Alluvial Fan Flooding means flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex. It is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant Structure—see *Accessory Structure*.

Area of Future-Conditions Flood Hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood, based on future-conditions hydrology.

Area of Shallow Flooding means a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood-Related Erosion Hazard is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the FIRM, Zone E may be further refined.

Area of Special Flood Hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

Base Flood means the flood having a 1-percent chance of being equaled or exceeded in any given year. *Base Flood Elevation (BFE)* is the water surface elevation of the 1-percent-annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

Best Available Data is existing flood hazard information adopted by a community and reflected on an effective FIRM, FBFM, and/or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. Any walls below the lowest floor in a building in a V or VE Zone should give way under wind and water loads without causing collapse, displacement, or other damage to the elevated portion of the building or the supporting pilings or columns. Breakaway walls apply only to V or VE Zones.

Building—see *Structure*.

Channelization means the artificial creation, enlargement, realignment, or alteration of a stream channel’s slope, shape, or alignment. Streambank restoration may be deemed as channelization.

Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

Conditional Letter of Map Revision Based on Fill (CLOMR-F) is FEMA's comment on a proposed structure or property. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

Crawlspace means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist the next higher floor elevation, designed with proper openings that equalize hydrostatic pressures of flood water, and is not used for habitation.

Critical Facility means a facility or building where even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, schools, storage of critical records, assisted living and similar facilities.

Deed Restriction refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings from being used for specific purposes or from being used at all.

Detached Garage is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

Development means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, demolition, excavation or drilling operations, or storage either temporary or permanent of equipment or materials.

Elevated Building is a non-basement building built, in the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, an “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Enclosure refers to an enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage.

Erosion means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

Existing Construction refers to structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. It may also be referred to as *Existing Structures*.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing Structures—see *Existing Construction*.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Fill refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to the existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

Flood or Flooding means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. Mudslides (i.e., mudflows) that are proximately caused by flooding as defined in this ordinance and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this ordinance.

Flood Insurance Manual is the document FEMA produces twice a year and is used to write flood insurance policies underwritten by the NFIP. The document contains definitions, policy rates, coverage and limitations, application, and insurance policy forms.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the SFHAs, and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) or Flood elevation study means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Floodplain Development Permit is a community issued permit or document that is used for any development that occurs within an SFHA identified by FEMA or the community. It is used to address the proposed development to ensure compliance with the community's ordinance.

Floodplain or Flood-Prone Area means any land area susceptible to being inundated by water from any source whether or not identified by FEMA (see definition of *Flooding*).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, mitigation plans, and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

Flood Opening refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to reduce the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized, flood modifying works are those constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee have met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

Floodway—see *Regulatory Floodway*.

Floodway encroachment lines mean the lines marking the limits of floodways on federal, state, and local flood plain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use means a development that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities. It does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. In AO Zones, the highest adjacent grade is utilized by comparing the lowest floor elevation to that of the highest adjacent grade and the depth of the AO Zone.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic reservation programs that have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Amendment (LOMA) means an official amendment, by letter, to an effective FIRM. A LOMA establishes a property's location in relation to the SFHA. It is usually issued because a property or structure has been inadvertently mapped as being in the floodplain when the property or structure is actually on natural high ground above the BFE.

Letter of Map Revision (LOMR) means FEMA's modification or revision to an entire or portion of the effective FIRM, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

Letter of Map Revision Based on Fill (LOMR-F) means FEMA's amendment, by letter, to an effective FIRM where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Adjacent Grade (LAG) means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; however, a manufactured home may be used for both residential and non-residential use.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the FHBM or the FIRM for a community issued by FEMA.

Mean Sea Level means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community's FIRM are referenced.

Mixed Use Structures are structures with both a business and a residential component, but where the area used for business is less than 50 percent of the total floor area of the structure.

New Construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No-Rise Certifications are formal certifications signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

Physical Map Revision (PMR) is FEMA's action whereby one or more map panels are physically revised and republished.

Recreational Vehicle means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily, not for use as a permanent dwelling but, as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

Section 1316 refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership.

Special Flood Hazard Area—see *Area of Special Flood Hazard*.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes in Chapter 2.99, a walled and roofed building, culvert, bridge, dam, or a gas or liquid storage tank that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes and Chapter 2.99, means:

1. A building with two or more outside rigid walls and a fully secured roof, which is affixed to a permanent site;
2. A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
3. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For insurance purposes, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure”, if the alteration will not preclude the structure's continued designation as a “historic structure.”

Variance means a grant of relief by a community from the terms of a flood plain management regulation. Reference: 2.99.05. VARIANCE PROCEDURES

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies, such as the 1-percent-annual-chance flood event, in the flood plains of coastal or riverine areas.

Watercourse means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch, or other similar feature.

Section 2.99.03. General Provisions.

1. Lands to Which This Ordinance Applies.

This Ordinance shall apply to all areas of special flood hazard identified by FEMA within the jurisdiction of Brandt.

2. Compliance.

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

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Deuel County, and incorporated areas" dated September 1, 2022 with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Ordinance.

4. Abrogation and Greater Restrictions.

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation - In the interpretation of this Ordinance, all provisions shall be:

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

6. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes.

This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance, or any administrative decision lawfully made thereunder.

7. Penalties for Noncompliance.

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the NFIP regulation, to qualify for the sale of federally subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances, or codes."

Section 2.99.04. Administration.

1. Designation of the Floodplain Administrator.

The Administrative Official of this Ordinance is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

2. Duties and Responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- a. Uphold the goals of the community and the NFIP to reduce risk when possible and increase the community's resistance to future disasters.
- b. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation of the lowest floor (including basement or crawlspace) of all new or substantially improved structures and any floodproofing certificates, including the data supporting such certificates.
- c. Maintain and hold open for public inspection maps that identify and locate the boundaries of the SFHAs to which this ordinance applies, including, but not limited to, the FIRM.
- d. Review development proposals to determine whether a proposed building site, including sites designed for the placement of manufactured homes, will be reasonably safe from flooding.
- e. Review, approve, or deny all applications for development permits required by adoption of this ordinance.
- f. Ensure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 and the Endangered Species Act of 1973) from which prior approval is required.
- g. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

- h. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the South Dakota Office of Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 - i. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
 - j. When BFE data has not been provided by FEMA, the Floodplain Administrator shall obtain, review, and reasonably utilize any BFE data and floodway data available from a federal, state, or other source including data provided by the applicant, in order to administer the provisions of this ordinance.
 - k. When a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30, AE, and AH on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1.00 foot at any point within the community.
 - l. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP Regulations, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM, which increases the water surface elevation of the base flood by more than 1.00 foot, provided that the community first meets the requirements of Section 65.12 for a conditional FIRM revision through FEMA's CLOMR process.
 - m. If the project is determined or reasonably believed to cause an adverse effect on the BFE(s), boundaries of the floodplain or any insurable structures, technical justification for the proposed development shall be submitted and the community may require a CLOMR or LOMR to be submitted prior to the permit approval or as a requirement of the permit.
3. Requirement to Submit New Technical Data.
- a. The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant had obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.
 - b. The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.

- c. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.

4. Permit Procedures.

- a. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to:

- i) Duplicated plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations.

- ii) Duplicated plans drawn to scale showing the location, dimensions, and elevation of existing and proposed structures, including the placement of manufactured homes.

- iii) Location of the foregoing in relation to SFHAs.

- iv) Elevation (in relation to mean sea level), of the lowest floor (including basement and crawlspace) of all new and substantially improved structures, if applicable;

- v) Elevation (in relation to mean sea level), to which any nonresidential structure (if applicable) shall be floodproofed.

- vi) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure (if applicable) shall meet the floodproofing criteria of this ordinance and the NFIP Regulations.

- vii) Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development, if applicable.

- viii) At the community's discretion, the community may charge a fee for issuance of floodplain development permits.

- ix) Copies of all floodplain development permits, and the associated documents shall become property of the community and a permanent record.

- a. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- i) The danger to life and property due to flooding or erosion damage.

- ii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

- iii) The danger that materials may be swept onto other lands to the injury of others.

- iv) The compatibility of the proposed use with existing and anticipated development.

- v) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- vi) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems.
- vii) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- viii) The necessity to the facility of a waterfront location, where applicable.
- ix) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- x) The relationship of the proposed use to the comprehensive plan for that area.

Section 2.99.05. Variance Procedures.

1. The Board of Adjustment as established by the community shall hear and render judgment on requests for variances from the requirements of this Ordinance.
2. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in 2.99.05.10 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this Ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance.

8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - i) showing a good and sufficient cause;
 - ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
 - c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a. the criteria outlined in 2.99.05 are met, and
 - b. the structure or other development is protected by methods that minimize flood; and
 - c. damages during the base flood and create no additional threats to public safety.

Section 2.99.06. General Standards for Flood Hazard Reduction.

1. General Standards.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
 - d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
 - g. On-site waste disposal systems shall be designed or located to avoid impairment to them or contamination from them during flooding.
2. Substantial Improvement.

Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, if the cumulative cost of the entire project equals or exceeds 50 percent of the market value of the structure only (not of the structure and land value combined) before the improvement or repair is started then the work shall be considered as substantial improvement. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the actual repair work performed. For Substantial Damage, refer to 2.99.06.3 SUBSTANTIAL DAMAGE. The term does not, however, include either:

- a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- b. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

3. Substantial Damage

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure only before the damage occurred. This term also applies to structures which have incurred any damage that equals or exceeds 50 percent of the structure's market value regardless of the actual repair work performed. When a structure or building has been determined as substantially damaged, any work or repair on said structure or building will be considered as substantial improvement and will be required to meet the development requirements set forth within this ordinance for substantial improvement.

4. Substantial Improvement and Substantial Damage Determination

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the applicable community officials and staff, shall:

- a. Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure only, not of land and building, before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.
- c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in Section 2.99.06.2 SUBSTANTIAL IMPROVEMENT.
- d. Utilize FEMA's Substantial Improvement/Substantial Desk Reference when making any determination on Substantial Improvement and/or Substantial Damage.
- e. The substantial improvement regulations apply to all of the work that is proposed as the improvement, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.
- f. Notify the applicant that if it is determined that the work constitutes substantial improvement or repair of substantial damage, that compliance with the floodplain management ordinance is required.

Section 2.99.07. Specific Standards for Flood Hazard Reduction.

In all SFHAs and areas of suspected flood risk areas, the following provisions are required:

1. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to the BFE, A registered professional engineer, architect, or land surveyor shall submit certified elevations to the Floodplain Administrator that the standards of this ordinance are satisfied.

2. Nonresidential Construction

New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the base flood level, or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator. If the use or occupancy of the building changes in the future to residential, then the dry floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance, Section 2.99.07.1 RESIDENTIAL CONSTRUCTION. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance.

3. Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are to be used solely for parking of vehicles, building access, or storage in an area other than a basement, and are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than 1 foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- d. The development and construction of the structure must conform with the provision in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2. Certification and documentation from a professional, licensed engineer or architect is required if the structure's lowest floor is built below the BFE.

4. Crawlspace

New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:

- a. The structure must be affixed to a permanent foundation, designed, and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.
- b. The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than 1 foot above the lowest adjacent grade (LAG).
- c. The crawlspace enclosure must have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of 1 square inch of flood opening is required per 1 square foot of the enclosed area subject to flooding.
- d. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, piers, or other materials that extend below the BFE. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- e. Any building utility systems within the crawlspace must be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- f. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the LAG.
- g. The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor cannot exceed 4 feet at any point.
- h. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.

- i. Buildings with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the LAG.

5. Manufactured Homes

- a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites outside of a manufactured home park or subdivision;) in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated as high as the BFE, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. In A-1-30, AH, AO and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at least as high as the BFE; or the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

6. Recreational Vehicles

Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use;
 - i) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- b. Or meet the permit requirements of 2.99.04.4, PERMIT PROCEDURES, and the elevation and anchoring requirements for "manufactured homes" of this section.

Section 2.99.08. Standards for Subdivision Proposals.

- 1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.

2. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
3. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.
4. BFE data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, or whichever is lesser.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall minimize flood damage.
6. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section 2.99.09. Floodways.

Floodways located within SFHAs are extremely hazardous areas due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway that will not increase the base flood level more than 1 foot.
2. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase greater than 0.00 feet in flood levels within the community during the occurrence of the base flood discharge.
3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this ordinance.
4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

**ARTICLE III
ADMINISTRATION**

CHAPTER 3.01 GENERAL

Section 3.01.01 Permits Required.

1. No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Administrative Official. No permit shall be issued by the Administrative Official except in conformity with the provisions of this ordinance, unless a written order is received from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this ordinance.
2. It shall be unlawful to commence the excavation for the construction of any building or any accessory building without a permit. A permit is also required for any filing, grading, lagooning, or dredging which is related to site preparation for future construction.
3. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this regulation.
4. No building permit is necessary for the following: shingling, replacement siding, window replacement, painting of exterior, and any interior improvements that do not involve the moving of load-bearing walls.

Section 3.01.02 Applications.

All applications for permits shall be accompanied by a site plan, which may be required to be 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 buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, 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. All plans and data accompanying the permit shall be final and conclusive.

Section 3.01.03 Fee Schedule.

The Town Board shall by resolution establish a schedule of fees, charges, and expenses and a collection procedure for building/use permits, special permitted use permits, conditional use permits, variances, amendments, appeals, and other matters pertaining to this ordinance. The schedule of fees may be altered or amended only by the Town Board.

The current fee schedule shall be available from the Administrative Official or Finance Office. All fees shall be the property of the Town and shall be paid over to the Finance Officer for credit to the General Fund of the Town, which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 3.01.04 Issuance of Permits.

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 1.02.02 of this Code.

Section 3.01.05 Expiration of Building/Permitted Use Permit.

1. If the work described in any building/permitted use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, 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 permit has been obtained. A six (6) month extension may be granted if requested in writing at least one (1) month prior to the expiration date. The maximum extension authorized is six (6) months.

CHAPTER 3.02. ADMINSTRATIVE OFFICIAL

Section 3.02.01 Establishment and Purpose.

The position of Administrative Official is hereby established for the Town of Brandt. Unless another individual is appointed by the Town Board, the Town Finance Officer shall serve as Administrative Official. Further, he/she may be provided with the assistance of such other persons as the Town Board may direct. The Administration Official shall administer and enforce this Ordinance. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

Section 3.02.02 Duties.

The powers and duties of the Administrative Official 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 it.
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 the time period prescribed by the administrative official.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Prepare all necessary documents as required by this Ordinance, or at the direction of the Brandt Town Board and/or the Brandt Board of Adjustment and/or the Brandt Planning and Zoning Commission. The Administrative Official shall consult with the Town Attorney as needed for assistance with drafting said documents.
8. Provide public information relative to all matters arising out of this Ordinance.
9. Forward to the Planning Commission all applications for amendments to this Ordinance.
10. 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.
11. The Administrative Official shall receive applications for Building Permits, Special Permitted Use Permits, Conditional Use Permits, Variances, and Zoning Amendments.
 - a. For building permits and special permitted use permits, the Administrative Official shall approve the application only in accordance with the provisions of the Town's Zoning Regulations.
 - b. For Conditional Use Permits and Variances, the Administrative Official shall review the application, and forward it, with or without recommendation, to the Board of Adjustment to either approve or disapprove said application.
 - c. For Zoning Amendments, the Administrative Official shall review the application, and forward it, with or without recommendation to the Planning Commission and Town Board.

3.02.03 Powers.

If the Administrative official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the persons responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it.

He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

CHAPTER 3.03. BOARD OF ADJUSTMENT

Section 3.03.01 Establishment.

1. A Board of Adjustment is hereby established, which shall consist of the Town Board President and members of the Town Board, as provided for in the provisions of Chapter 11-4, South Dakota Codified Laws and Amendments.
2. The Town Board and President may appoint two (2) alternates for the Board of Adjustment. If a Town Board Member or President acting as a Board of Adjustment member is unable to attend a meeting, the first alternate, or second alternate in turn, shall serve in the member's place. Alternates may be appointed for a term of three (3) years.

Section 3.03.02 Procedures for Meetings.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions. A draft of which will be prepared and available for public inspection ten (10) days following said meeting. Upon adoption by the Board of Adjustment, all of which shall be a public record, said minutes shall immediately be filed in the office of the Town Finance Officer of the Town of Brandt, South Dakota.

Section 3.03.03 Powers and Duties of Board of Adjustment.

The Board of Adjustment shall have the following powers and duties:

1. Administrative Review:
 - a. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination, or refusal made by the Administration Official in the carrying out or enforcement of any provision of this Ordinance, and for the interpretation of the Zoning Map.
2. Conditional Uses:

To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance.

3. Variances:

To hear requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

Section 3.03.04 Hearings; Appeals; Notice:

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer to grant or deny the permit. Such appeals shall be taken within a reasonable time, not to exceed twenty-one (21) days or such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken.

The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest. At the hearing, any party may appear in person or by agent or attorney.

Section 3.03.05 Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official:

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.
 - a. All appeals filed in accordance with Section 3.03.04 relating to a particular action, decision, or property shall be consolidated and heard at the same hearing.
 - b. Ministerial acts or other preliminary acts to bring an application or matter before the Board may not be appealed to the Board of Adjustment.
2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.
3. The concurring vote of two-thirds (2/3) of the full membership of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

Section 3.03.06 Appeals:

Any person or persons, or any board, taxpayer department, board, jointly or severally 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 Finance Officer.

Section 3.03.07 Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause an imminent peril to life and property. In such case proceedings shall not be stayed other 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 Administrative Official from whom the appeal is taken and on due cause shown.

CHAPTER 3.04 PROCEDURES FOR APPLICATIONS

Section 3.04.01 Building Permits.

1. No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this ordinance including use, height, number of occupants, lot area, off street parking or yard requirements, shall occur without a building permit issued by the Administrative Official. Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, or construction set forth in such approved plans and specifications. Any use, arrangement, or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.
2. The landowner, or applicant on behalf of the landowner, requesting the Building Permit shall complete an application for a building permit, accompanied with the appropriate fee, available from the Administrative official, shall be completed by the landowner or applicant requesting the building permit. Completed applications shall be returned to the Administrative Official(s) for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - a. Applications for building permits shall be accompanied by a site plan, which may be required to be drawn to scale, and to include the following:
 - i. Information as prescribed in Section 3.01.02 Application.
 - ii. The location of the said lot with respect to existing rights-of-way and adjacent lots.

- iii. A letter of certification stating that the lot to be built upon has been accurately surveyed. This requirement may be waived by the Administrative Official in the event lot markers (pins) have been located.
 - iv. Any other information which the Administrative Official may deem necessary to determine compliance with the requirements of this ordinance.
3. One copy of the application shall be returned to the applicant after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. The Administrative Official shall retain one copy of the application, similarly, marked for Town records.
4. The Administrative Official shall then, if the applicant is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.
5. Building permits are intended to 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.

Section 3.04.02 Conditional Uses

Conditional Use permits are allowed for certain uses as identified in Chapter 2.03 District Regulations. Uses not listed in Chapter 2.03 District Regulations as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

The following procedure for requesting a Conditional Use Permit shall be followed:

1. The Board of Adjustment shall adhere to the following procedure in considering a conditional use permit. A Conditional Use Permit is intended by this ordinance to be granted by the Board of Adjustment provided:
 - a. 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.
 - b. Property owners adjacent to the proposed site shall be notified of the conditional use request by mail, at the cost of the applicant.
 - c. 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.
 - d. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - e. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.

- f. The granting of any conditional use, by the Board of Adjustment shall 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:
 - i. Access:
 - a) 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.
 - b) Reasonable provisions have been made for safe vehicular and pedestrian entrance and exit of the property for daily and emergency traffic.
 - ii. Parking and internal traffic:
 - a) The parking areas and driveways will be covered in materials appropriate for the internal traffic generated by the use.
 - b) The number of parking spaces is appropriate for the proposed use of the property.
 - iii. Utilities and refuse:
 - a) The manner by which electricity, water, sewer, natural gas and other utilities will be provided has been described.
 - b) Consideration has been given to the location of refuse and service areas and manner for disposing of trash, junk, or other debris.
 - iv. Screening, buffering, and open space:
 - a) 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.
 - v. Lighting:
 - a) Lights associated with the use will not create a nuisance nor distract traffic.
 - b) Brightness, intensity, glare of lights will be similar to lighting which would be customarily used for permitted uses in the applicable zoning district.
 - vi. General compatibility with adjacent properties and other property in the district.
 - a) Any use listed as a Conditional Use is generally compatible in the district in which it is listed.

- b) General compatibility is used when prescribing conditions for approval of a permit.
- g. In granting any conditional use, the Board of Adjustment may prescribe conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards may result in revocation of the permit. Violation of such conditions, when made a part of the terms under which the conditional use is granted, shall further be deemed a violation of this regulation and punishable under the terms of this regulation.
- h. The concurring vote of a majority of the present and voting members of the Board of Adjustment is required to pass any application for a Conditional Use.
- i. If no work has commenced, unless otherwise specified by the Board of Adjustment, a Conditional Use Permit shall expire two (2) years from the date upon which the Conditional Use Permit becomes effective or two (2) years following completion of any final appeal of the decision of the Board of Adjustment to issue the permit.

Section 3.04.03 Variances.

Variances to the Zoning Regulations may be granted by the Board of Adjustment, 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:

The following procedure for requesting a Variance shall be followed:

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. Property owners adjacent to the proposed site shall be notified of the variance request by mail, at the expense of the applicant.
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. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest. A variance from the terms of this ordinance shall only be granted if all of the following are demonstrated by the applicant.

- a. 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;
 - b. 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;
 - c. The special conditions and circumstances do not result from the actions of the applicant;
 - d. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
 - e. The granting the variance request would not confer upon the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
 - f. 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.
 - g. The Board of Adjustment shall make findings that the requirements of Section 3.04.03 have been met by the applicant for a variance;
 - h. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure; and
 - i. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. In granting any variance, the 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.
 7. Under no circumstances shall the 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.
 8. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment is required to pass any application for a variance (2 votes).
 9. If no work has commenced, unless otherwise specified by the Board of Adjustment, a variance shall expire two (2) years from the date upon which the variance becomes effective or two (2) years following completion of any final appeal of the decision of the Board of Adjustment to issue the variance.

Section 3.04.04. Procedures for Approval of Special Permitted Use Permit

1. The special permitted use procedure is an administrative review process, where the Administrative Official shall have the power to review an application for conformance with the applicable standards and approval criteria and issue a special permitted use permit. Requests for special permitted 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 use permit shall not be granted unless and until:
 - a. A written application for a special permitted use is submitted, indicating the section of this Ordinance under which the special permitted use is sought and stating the grounds on which it is requested.
 - b. The Administrative Official shall review the application for conformance with this Ordinance.
 - c. If the Administrative Official determines that the application is in conformance with the prescribed performance standards, the Administrative Official 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 special permitted use permit.
 - d. The Administrative Official shall then issue the special permitted use permit subject to the applicant agreeing to any conditions prescribed by this Ordinance or the Administrative Official for the special permitted use permit.
 - e. The Administrative Official shall then issue any other associated building/use permits.
 - f. 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 Administrative Official shall determine that the application is not in conformance with this Section and appropriate special permitted use standards. The applicant may, as appropriate:
 - i. Apply for a variance from lot area and setbacks.
 - ii. Apply for Conditional Use Permit, if eligible.
 - iii. Appeal the decision of the Administrative Official in accordance with Section 3.03.04 and 3.03.06.
 - g. 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 the Administrative Official 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 Administrative Official.
 - h. If a decision by the Administrative Official 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 (2) years following completion of any final appeal of the decision.

Section 3.04.07 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 Town Board 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:
 - a. The Town Board 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 proposed to be rezoned may present a request to change the zoning district boundaries;
 - d. Initiated petitions specifying and requesting amendments to the textual regulations of this Ordinance may be presented to the Administrative Official if said petition(s) contain signatures of twenty (20) percent of the landowners in the zoning district(s) where the proposed textual amendment would apply. Initiated textual amendments of this ordinance shall not be brought to a public vote.
 - e. Any such amendment proposing a modification or repeal shall be proposed in an ordinance presented to the planning commission and Town Board for adoption in the same manner and upon the same notice as required for the adoption of the original ordinance.
2. Any such amendment proposing a modification or repeal shall be proposed in an ordinance and shall require Town Board approval of an Ordinance describing said changes. The Town Board may not consider said Ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said Ordinance amendment.
3. The following procedure for requesting a Zoning text Amendment or Zoning District Boundary Change shall be followed:
 - a. The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Administrative Official or Finance Officer. Completed applications shall be returned to the Administrative Official 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:
 - i. Any required attachments and fees, including Mail costs; and
 - ii. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.
 - iii. The Administrative Official 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.

- iv. The Administrative Official shall set the date, time, and place for a joint public hearing to be held by the Planning Commission and Town Board. The Administrative Official 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 the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Mail at the expense of the applicant, at least ten (10) days before the public hearing.
- v. 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.
- vi. The Planning Commission shall either recommend or not recommend approval of the amendment to the Town Board.
- vii. The Town Board 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.
- viii. When the Town Board 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 (2/3) of the Town Board.
 - a) Protest Standard: The protest shall be signed by at least forty percent (40%) of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

Section 3.04.08. Reapplication.

No application requesting a variance, conditional use, or zoning ordinance amendment or 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 of Adjustment (variances, conditional uses) or Town Board (Zoning Amendments, Zoning District Boundary Changes), shall again be considered by the Planning Commission, Board of Adjustment or Town Board before the expiration of six (6) months from the date of the final action of the Planning Commission, Board of Adjustment, or Town Board.

CHAPTER 3.05. Planning Commission

Section 3.05.01 Planning Commission Created.

There is hereby created a Planning Commission for the Town of Brandt, South Dakota and for land within three (3) miles of its corporate limits.

Section 3.05.02 Membership of the Planning Commission.

The Planning Commission shall consist of the Town Board President and Town Board Trustees. The members of this Planning Commission shall be resident electors of the Town of Brandt qualified by knowledge or experience to act in matters pertaining to the development and administration of the Comprehensive Land Use Plan. Administrative officials may be appointed as ex-officio members of the Commission by the President.

Section 3.05.03 Terms of Members.

The term of each member of the Planning Commission shall coincide with the respective terms of office held by the President and Trustees.

Section 3.05.04 Organizations, Rules, Staff, and Finances.

Such Planning Commission shall elect its chairperson from among its members for a term of one (1) year with eligibility for re-election, and may fill such other of its offices as it may create in a manner prescribed by the rules of such Commission. The Commission shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, findings and determinations which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work whose appointment, promotion, demotion and removal shall be subject to the same provisions of law, including Civil Service Regulations as govern other corresponding civil employees of the municipality. The Commission may also contract with planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Commission, exclusive of those made from funds received by it, shall be within the amount appropriated for the purpose by the Town Board which shall provide the funds, equipment and accommodations necessary for the commission's work.

Section 3.05.05 Duties.

The Planning Commission shall have the following duties:

1. Comprehensive Land Use Plan:
 - a. The Planning Commission may prepare, or cause to be prepared, a comprehensive plan for the Town of Brandt. Upon preparation the Planning Commission shall make recommendation to the Town Board after complying with the public hearing and noticing requirements.
 - b. The comprehensive plan shall be for the purpose of protecting and guiding the physical, social, economic, and environmental development of the Town; to protect the tax base; to encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provisions of transportation, roads, water supply, drainage, sanitation, education, recreation, or other public requirements; to lessen governmental expenditure; and to conserve and develop natural resources.

2. Zoning Ordinance:

- a. For the purpose of promoting health, safety, or the general welfare of the Town, the Town Board, upon recommendation from the Planning Commission, may adopt a zoning Ordinance to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of the yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, flood plain, or other purposes.
- b. The Town Board may divide the Town into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter; and within the districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one (1) district may differ from those in other districts.
- c. The regulations shall be made in accordance with the Comprehensive Plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration or scattering of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks; and other public requirements.
- d. The regulations shall be made with reasonable consideration, among other things, to the character of the district, and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.
- e. Upon preparation of a zoning Ordinance, or any amendment thereto, the Planning Commission shall make a recommendation to the Town Board after complying with the public hearing and noticing requirements.

3. Subdivision:

- a. The Planning Commission may make recommendations to the Town Board for the adoption of a subdivision Ordinance which shall be made in accordance with the Comprehensive Plan. The regulations may establish standards and procedures to be employed in land development including subdividing of land and the approval of land plats and the preservation of streets and land for other public purposes requiring future dedication or acquisition and general design of physical improvements.
- b. To review proposals for subdivision Ordinance adoption, or amendments thereto, to determine whether such subdivisions comply with the subdivision Ordinance of the Town of Brandt and make recommendation to the Town Board relating to the approval of subdivisions.

- c. Upon preparation of a subdivision Ordinance, or any amendment thereto, the Planning Commission shall make a recommendation to the Town Board after complying with the public hearing and noticing requirements.

4. Amendments:

- a. 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 to the Town Board after complying with the public hearing and noticing requirements.

Section 3.05.06 Compensation.

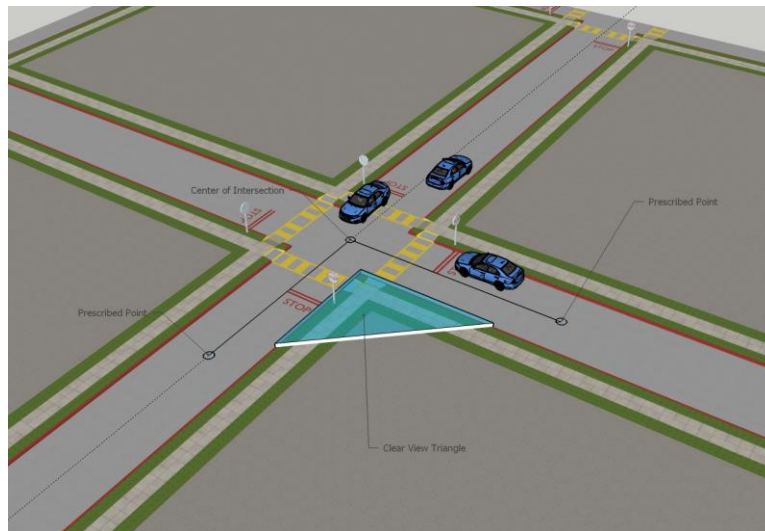
- 1. All members of the Planning Commission shall serve as such without compensation.

**ARTICLE IV
SUPPLEMENTAL REGULATIONS**

CHAPTER 4.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

On a corner lot in any zoning district, no planting or obstruction to impede vision between a height of three (3) and ten (10) feet above the centerline grades of the intersecting streets shall be placed or maintained within the triangular area formed by the intersection of street right-of-way lines and a straight line connecting points on said road right-of-way line, each of which is fifty (50) feet from the point of intersection (Clear View Triangle). See Figure 4.01.

Figure 4.01



CHAPTER 4.02 FENCES

Section 4.02.01 Construction and Materials

1. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the Town of Brandt corporate limits any fences of any character or material, without obtaining a building permit.
2. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Chapter 4.01.
3. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the Town of Brandt corporate limits any fences of any character or material closer than one (1) foot to the sidewalk line or property line. Exception: A fence/wall/hedge may be placed on the property line provided application includes both owners of the shared property line

4. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The Town further requires fencing materials to be “new” – used for first time installation. Individuals wishing to utilize “used” – not first-time installation fencing materials shall require Board of Adjustment approval. No electric or barbed wire fence shall be used in the construction of any fences within the Town of Brandt, except that barbed wire may be used in connection with a security fence when the barbed wire is at least six feet from the ground and/or the fence is located in an agricultural zone but not adjacent to a residential zoning district.
5. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.
6. Fences in Front, Side and Rear Yards
 - a. Notwithstanding other provisions of this ordinance, fences, walls, and hedges, fences/walls and hedges may be allowed in accordance with Table 4.02.01 and Figures 4.02.01, 4.02.02, and 4.02.03.
 - b. The administrative official is authorized to permit fences/walls/hedges up to seven (7) feet in height provided said fence/wall/hedge is located outside the required front yard.

Table 4.02.01

Fence Requirements	Corner Lot		Interior Lot	
	Setback	Maximum Fence Height	Setback	Maximum Fence Height
Front yard – Fence (Less than 30% solid)	1’ foot from sidewalk line (ROW)	4’	1’ foot from sidewalk line (ROW)	4’
Front yard – Fence (more than 30% solid)	Minimum Setback in applicable Zoning District	7’	Minimum Setback in applicable Zoning District	7’
Rear yard no Alley	1’	7’	1’	7’
Rear yard with Alley	10’ from alley line and street line	7’	10’ from alley line	7’
Side yard	1’	7’	1’	7’

Figure 4.02.01



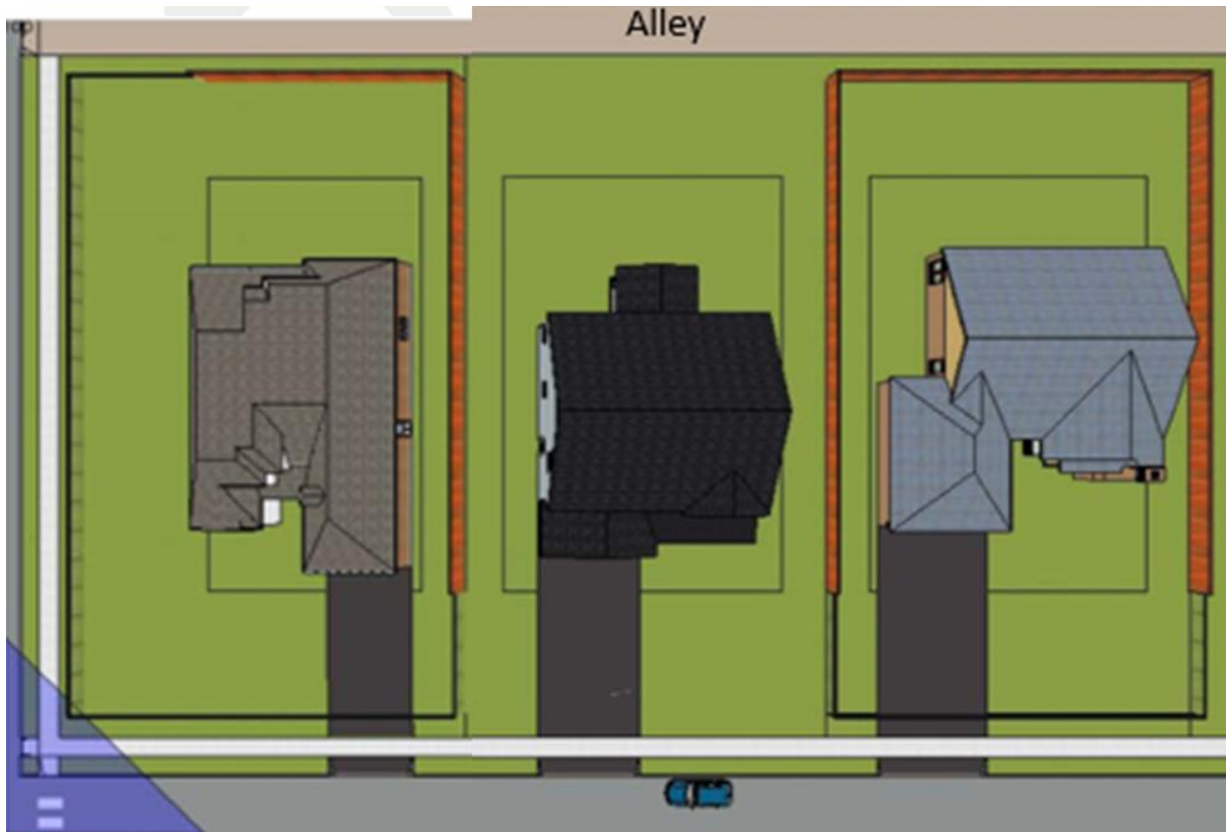
Corner Lot: 4-foot-tall fence which is less than 30% solid in front yard [1 foot from sidewalk line (ROW)]; 7-foot-tall fence which is more than 30% solid [1 foot from rear (if no alley) and side yard property lines and no closer than required front yard setback of underlying district].

Figure 4.02.02



Interior Lot: 4-foot-tall fence which is less than 30% solid in front yard [1 foot from sidewalk line (ROW)]; 7-foot-tall fence which is more than 30% solid [1 foot from rear (if no alley) and side yard property lines and no closer than required front yard setback of underlying district].

Figure 4.02.03



Corner and interior Lot: 4-foot-tall fence which is less than 30% solid in front yard [(1 foot from sidewalk line (ROW)]; 7-foot-tall fence which is more than 30% solid not to be located closer than required front yard setback of underlying district and 1 foot from rear and side yard property lines. Exception: All fences adjacent to alleys are to be set back 10 feet from the alley line. (blue triangle is clear view safety triangle)

CHAPTER 4.03 ACCESSORY BUILDINGS

1. Only specifically authorized accessory uses are allowed; accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such 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. Except in accordance with Chapter 4.03.7, no accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five (5) feet of any other building.
4. No accessory building may be used for residential dwelling purposes at any time.

5. Intermodal Shipping/Storage Container required a permit and are not considered accessory buildings. They may be allowed for a specific period of time, as determined by the Board of Adjustment, but not for more than ninety (90) days

6. Residential districts.

Accessory uses shall be permitted for the principal permitted uses and Conditional Uses for the residential districts only in accordance with the provisions of Table 4.03.5

7. Accessory buildings which are attached to or located within ten (10) feet of the main building shall be considered part of the principal structure and shall comply with the same yard requirements as the main building.

8. Accessory buildings, not part of the main building may be located in the required rear yard, but such accessory buildings may not occupy more than thirty (30) percent of the required rear yard. See Figure 4.03.7.B.

Figure 4.03.7.B

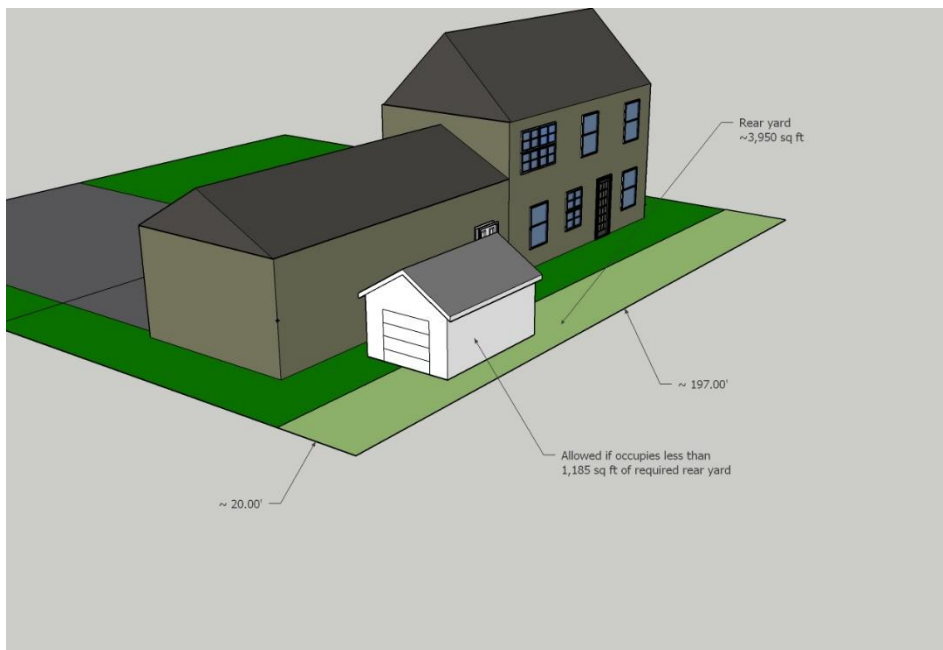


Table 4.03.5

Permitted uses:

Principal Use	Permitted Accessory Uses
<p>Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and day care centers.'</p> <p>a. Have siding material of a type customarily used on site-constructed residence. This does not include corrugated galvanized steel or steel panel siding.</p> <p>b. Have roofing material of a type customarily used on site-constructed residence. This may include steel panels but not corrugated galvanized steel.</p> <p>c. Exception: Steel Panel Siding, not including corrugated galvanized steel, for principal uses may receive a special permitted use permit if consent of all adjacent landowners is obtained.</p>	<p>1. Private garages.</p> <p>a. Attached garages shall be limited to a total area less than or equal to the gross floor area of the house and conform to the design of the house. With the exception of Shop-style Dwellings, steel panel siding is prohibited. See d. Exceptions, below.</p> <p>b. Unattached garages shall be limited to a maximum sidewall height of fourteen (14) feet and a total area less than or equal to the gross floor area of the house and a minimum 4/12 roof pitch or to conform to the design of the house. See e. Exceptions, below.</p> <p>c. Unattached garages shall have siding and roofing materials of a type customarily used on site-constructed residence. Comparable to and color coordinated with principal dwelling. Corrugated galvanized steel siding is prohibited. See e. Exceptions, below.</p> <p>d. Exceptions: Unless a special permitted use permit is granted, steel panel siding for attached garages prohibited. Attached garages may receive a special permitted use permit to use steel panel siding and roofing materials if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received.</p> <p>e. Exceptions: Unless a special permitted use permit is granted, steel panel siding for unattached garages is prohibited. Unattached garages may receive a special permitted use permit to use steel panel siding and roofing materials if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received.</p> <p>f. Exceptions: Detached and unattached garages may receive a special permitted use permit to exceed maximum area dimensions and height requirements if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received. The maximum lot coverage for all buildings and structures shall not exceed thirty (35) percent of the total lot area. The maximum sidewall height shall not exceed sixteen (16) feet.</p> <p>2. Buildings or structures for customary residential storage- purposes, including weather protective canopies (carports), not over twelve (12) feet in height and not exceeding two hundred (200) square feet in gross floor area with a door opening no wider than seven (7) feet.</p> <p>3. Readily moveable sports, recreation, or outdoor cooking equipment.</p> <p>4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved.</p> <p>5. Home occupations but only as defined herein.</p> <p>6. Non-commercial greenhouses provided that greenhouses over one hundred (100) square feet in floor area must have an approved site plan.</p> <p>7. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance.</p>
<p>Religious Institutions</p>	<p>1. All uses and structures determined by the administrative official to be customarily incidental and reasonably necessary to promote the primary purposes of the principal use.</p>
<p>All Conditional Uses</p>	<p>1. All uses and structures determined by the administrative official to be customarily incidental and reasonably necessary to promote the primary purposes of the principal use.</p>
<p>Prohibited and non-conforming uses</p>	<p>1. No accessory uses/structures permitted.</p>

CHAPTER 4.04 SIGNS AND OUTDOOR ADVERTISING.

Section 4.04.01 Prohibited Signs:

1. No private sign shall be erected or maintained which:
 - a. Creates a hazard due to collapse, fire, collision, decay, or abandonment; or
 - b. Creates traffic hazards, by either:
 - i. Confusing or distracting motorists; or
 - ii. Impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or
 - iii. Impairing the driver's ability to see and interpret any official traffic sign, signal, or device; or
 - iv. Creates a nuisance to persons using a public right-of-way; or
 - v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.
2. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hung, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel.

Section 4.04.02 General Requirements

Signs shall be permitted in zoning districts per Article II, subject to the following provisions:

1. Wall signs may be located anywhere on the wall of a building.
2. Signs shall not project over public property.
3. 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 4.01.
4. Each sign – size, lighting, and location - in the Town shall at least meet the standards established by the South Dakota Department of Transportation.
5. The Administrative official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with codes relating to outdoor advertising.

Section 4.04.03 Signs in the Residential Zoning Districts.

1. Permanent freestanding signs and wall signs are prohibited in Residential Zoning Districts. Exception: Churches, schools, public buildings, hospitals, nursing homes, licensed day care facilities, commercial storage buildings and manufactured home parks.
2. Freestanding and wall signs erected accessory to any permitted use or conditional use in the any 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 4.04.03.3.
 - a. The sign structure or sign shall have a maximum height of ten (10) 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. Notwithstanding the provisions of Section 4.04.02.5, 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 one (1) foot from any street right-of-way and shall comply with all other requirements of this Chapter.

Table 4.04.03.3

Sign Type	Area	Number
Freestanding	50 Square Feet	1
Wall		

Section 4.04.04 Signs in Commercial and Industrial Zoning Districts.

Freestanding and wall signs erected in the Highway Commercial and Industrial Districts shall be constructed in accordance with the building permit issued for the sign and, unless specified elsewhere in this Ordinance, conform to Table 4.04.04.

1. The sign structure or sign shall have a maximum height of thirty-two (32) feet or six (6) feet above the height of the peak of the tallest building on site, whichever is greater. 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.
2. Notwithstanding the provisions of Section 4.04.02.5, each sign shall not be closer than one (1) foot from any street right-of-way and shall not overhang above any right-of-way.

Table 4.04.04

Sign Type	Setback from Residentially Zoned Property	Area	Number	
Freestanding	100 Feet	<ul style="list-style-type: none"> • 2 sq. ft. per lineal foot of frontage not to exceed 120 square feet (A) 	1 per 100 lineal feet of frontage (B)	1 per 100 lineal feet of frontage (B)
Wall	Applicable Setback for Primary Structures	7% of wall area facing right-of-way	n/a	

(A) In the case of lots with multiple frontages, maximum sign area for each sign is based upon the lineal feet of the narrowest frontage on the lot.

(B) For lots with less than one hundred (100) feet of frontage on any given street, one (1) sign is allowed per frontage.

CHAPTER 4.05 PARKING

Section 4.05.01 Use of Major Recreation Equipment.

1. Off-street parking of motor vehicles, recreational vehicles, watercraft, or trailers is not permitted in the required front yard of any residence except upon a driveway.
2. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 4.05.02 Parking and Storage of Certain Vehicles:

Automotive vehicles or trailers of any kind or type which are inoperable or without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. Further, vehicles not in use and without a current license may not be kept in any uncovered area other than designated junk or salvage yard.

Section 4.05.03 Off-Street Parking Requirements:

Off-street motor vehicle parking and loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off-street Parking and Loading Requirements in Table 4.05.03 below. In the event the minimum number of spaces specified cannot be reasonably provided on the same lot as the principal use for which the spaces are required, the Board of Adjustment may permit such spaces to be provided on other off-street property within four hundred (400) feet of the entrance to such principal use.

Table 4.05.03

USE OR STRUCTURE	MINIMUM OFF-STREET PARKING REQUIREMENTS	MINIMUM OFF-STREET LOADING REQUIREMENTS
Bed & Breakfast	One (1) space for each guest room	None
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Car Wash	Three (3) spaces per wash stall	None
Churches	One (1) space for each four (4) seats in the main seating area	None
Eating & Drinking Places	One (1) space for each three- (3) customer seating spaces	One space per establishment
Gas Stations	Three (3) per bay plus one (1) per employee on duty	One space per establishment
Hospitals	One (1) space for each three (3) beds	Three spaces per establishment
Hotels/Motels	One (1) space for each guest room plus one (1) per employee at largest shift	One space per establishment
Industrial Uses	One (1) space for each two (2) employees on the maximum working shift	Two spaces per establishment
Libraries	One (1) space for each five hundred- (500) square feet of floor area	One space per establishment
Medical or dental clinics	One (1) space for each examining or operating room plus one (1) space for each doctor and employee	None
Manufactured home parks	Two (2) spaces for each manufactured home	None
Mortuaries & funeral homes	Five (5) spaces for each reposing room	Two spaces per establishment
Multiple family dwellings, Nursing, Convalescent & Rest Homes	Two (2) spaces for each dwelling unit or one (1) space per bedroom, whichever is greater.	None
Museums	1 per employee on duty plus 5 per 1000 sq. ft.	One (1) space per establishment
Office	1 per 250 sq. ft. gross floor area	None
Private Clubs, Lodges, Social or Fraternal Organizations	One (1) space for each one hundred (100) square feet or one (1) space for each three (3) seats at bars or dining tables, whichever is greater	None
Schools	One (1) space for each twenty-five students	One (1) space per school
Service Establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Single family dwellings	Two (2) spaces for each dwelling unit exclusive of required yards	None
Theatres, auditoriums, & places of public assembly	One (1) space for each four (4) seats of design capacity	One (1) space per establishment
Warehouse, wholesale & distribution	One (1) space for each two (2) employees on the maximum working shift	Two (2) spaces per establishment

CHAPTER 4.06 STRUCTURES TO HAVE ACCESS

Every building hereafter erected or moved shall be on a lot adjacent 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 4.07 MOVED BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the Town unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.
 - a. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.
 - b. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical, and construction requirements of the Town of Brandt.
 - c. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
 - d. The applicant shall also file with the Town Finance Officer a map of roadways upon which the building will be carried within Town limits. Further, the applicant may be required to provide documentation of condition of said roadways, including right of way, utilities, private property, etc., both prior to, and following the moving of the structure.
 - e. If damage occurs, the applicant shall be held financially responsible for the repair of roadways, including right of way, utilities, private property, etc. to their respective condition prior to the damage. All work shall be performed to the standards of the Town of Brandt.
 - f. No building shall be moved other than during the period from daylight to sundown.
 - g. 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 Town, the Administrative 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
 - h. The applicant may also be required to provide a sufficient bond conditioned so that the applicant will indemnify the Town and any public utility for any damage done to any property, street, alley or public grounds.
 - i. Any building which is not newly constructed to be used for first occupancy shall also meet the following minimum requirements to obtain a permit.

- i. The written consent sixty-six (66) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of more than fifty (50) percent of the number of owners of property within one hundred fifty (150) feet (excluding streets and alleys) of said proposed location has been received.
2. It shall be unlawful to move any house or other building off of any lot within the Town unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.
 - a. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.
 - b. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
 - c. The applicant shall also file with the Town Finance Officer a map of roadways upon which the building will be carried within Town limits. Further, the applicant may be required to provide documentation of condition of said roadways, including right of way, utilities, private property, etc., both prior to, and following the moving of the structure.
 - d. If damage occurs, the applicant shall be held financially responsible for the repair of roadways, including right of way, utilities, private property, etc. to their respective condition prior to the damage. All work shall be performed to the standards of the Town of Brandt.
 - e. 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 Town, the Administrative 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.
 - f. When no replacement structure is to be moved in or constructed, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeding.

CHAPTER 4.08 YARDS

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

Section 4.08.01 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 4.08.02 Additional Yard Requirements.

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. Except in the "A", and "C1" Districts, a corner lot must have a front yard on both streets subject to the following:
 - a. In no instance shall the yard on the side street of a corner lot be reduced to less than twelve and one-half (12 ½) feet.
 - b. On through lots and reversed frontage lots, a front yard must be provided on both streets.
 - c. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.
2. All buildings on lots in an "C1", "HC", "I", or "A" District adjacent to the R1 and R2 Districts lot shall observe the minimum yard requirement of the applicable zoning district or the affected R1 or R2 District, whichever is greater, for the shared property line. This requirement does not apply to lots across a rights-of-way or alleys.

Section 4.08.03 Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements:

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. In Commercial and Industrial Districts, Filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.

CHAPTER 4.09 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, unless authorized by the Board of Adjustment in granting a permit for a listed Conditional Use, 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.

CHAPTER 4.10 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Article II do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

CHAPTER 4.11 PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS)

All existing septic tanks not connected to the Town's sewage disposal system are considered Non-Conforming Uses. All structures used for human habitation, commercial and industrial use must be connected to a sewage disposal system approved by the Town Board. If the Town sanitary sewer system is available within two hundred (200) feet of a structure utilizing a private wastewater treatment system, all such structures must be connected at the landowner's cost.

CHAPTER 4.12 MANUFACTURED HOME PROVISIONS.

Section 4.12.01 Modular Homes.

1. Modular homes shall meet the following regulations.
 - a. Modular homes shall meet or exceed International Building Codes.
 - b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
 - c. Modular homes shall have more than 1,000 square feet in ranch style and 850 square feet split and be placed on a permanent foundation. The foundation shall be to a depth below the frost line.
 - d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
 - e. Modular homes shall have a minimum of a 3/12-roof pitch.
 - f. Have siding material of a type customarily used on site-constructed residences.
 - g. Have roofing material of a type customarily used on site-constructed residences.

Section 4.12.02 Type I and Type II Manufactured Homes.

1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two types of homes are defined under these regulations.
 - a. Type I manufactured home shall:
 - i. Have more than 1,100 square feet of occupied space in a double section or larger multi section unit.
 - ii. The running gear and hitch have been removed.
 - iii. Has been anchored to a foundation and permanent footing.

- iv. The foundation shall be (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete or concrete block.
 - v. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade.
 - vi. Have a gabled roof with a pitch of at least 3/12 feet.
 - vii. Have siding material of a type customarily used on site-constructed residences.
 - viii. Have roofing material of a type customarily used on site-constructed residences.
 - ix. The age of the manufactured house may not exceed fifteen (15) years from the date of manufacture.
- b. Type II manufactured home shall:
- i. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit.
 - ii. Utilize a perimeter enclosure in accordance with approved installation standards, as specified in 4.12.02.
 - iii. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the National Mobile Home Construction and Safety Standards Act (HUD CODE) for this wind zone region.
 - iv. Have siding material of a type customarily used on site-constructed residences.
 - v. Have roofing material of a type customarily used on site-constructed residences.
 - vi. The age of the manufactured house may not exceed fifteen (15) years from the date of manufacture.
 - vii. Be placed onto a support system. In accordance with approved installation standards, as specified in Section 4.12.02.2

2. Installation standards

- a. Permanent Perimeter Enclosure as required for Type I and II Manufactured Homes. Those manufactured homes designated in this Ordinance (Type I), as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

b. Foundation Siding/Skirting

All manufactured homes without a permanent perimeter enclosure (Type II) shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

c. Support System

1) All HUD-Code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.

2) Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications

3. Nonconforming Homes.

A manufactured home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this Ordinance shall continue to be a legal nonconforming use. If the nonconforming use is discontinued for a period of one (1) year, the land thereafter must be used in conformity with all provisions of this Ordinance.

4. Structural Alteration.

Any structural alteration or modification of a manufactured home requires a building permit.

5. Variance from Maximum Age Requirement

Type I and Type II manufactured homes may receive a variance from the maximum age requirement (Section 4.12). The Board of Adjustment may grant a variance if the applicant requesting the placement of the manufactured home meets the following requirements:

a. The applicant shall provide a photograph of the manufactured home's exterior and interior.

b. That it shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of the Town of Brandt.

c. That the applicant shall obtain, and present to the Board of Adjustment, the written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of sixty-six (66) percent of the property owners within one hundred fifty (150) feet (excluding streets and alleys) of said proposed location.

CHAPTER 4.13 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 Type II manufactured homes, provided said manufactured homes comply with Chapter 4.12.

CHAPTER 4.14 UTILITY EASEMENTS.

No building or addition thereto shall be erected over or across any existing public utility nor upon any platted easement.

CHAPTER 4.15. EXTENDED HOME OCCUPATION.

There are significant differences between home occupations conducted in residential dwellings on small tracts and those which may be operated in an accessory structure on the same property as a residential dwelling. The nature of resources available for use, the benefits and disadvantages created by home occupations, and the problems generated necessitate a distinction between home occupations and extended home occupations. Each concept is based on supplementing income, but due to density of development and different requirements on the placement of accessory structures extended home occupations typically require unique considerations. For the aforesaid reasons, certain types of uses may be permitted as extended home occupations in certain districts provided certain considerations are made.

1. For the purpose of this section, provided all requirements are met, the following shall be considered extended home occupations:
 - a. Personal services;
 - b. Finance, insurance and real estate services;
 - c. Sale of products grown or produced by the residents of the property;
 - d. Light manufacturing/repair/other services provided all performance standards are met or exceeded;
 - e. Custom processing on a lot zoned "Agriculture District" subject to Chapter 4.16
2. Performance Standards
 - a. An extended home occupation may not be changed to another extended 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 one (1) non-family employee.
 - 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 sixteen (16) 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.
- 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 shall 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, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
- h. No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, 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 line voltage off the premises.

CHAPTER 4.16. CUSTOM PROCESSING.

Section 4.16.1. General Conditions.

1. The following are general conditions to govern Custom Processing activities:
 - a. There is no slaughtering of animals on site.
 - b. The transport of animals and by-products shall be pursuant to the conditions set forth in the conditional use Permit issued by the Board of Adjustment.
 - c. The facility must have all necessary federal and state licenses and approvals, and comply with all state and federal health and safety regulations.
 - d. The facility hours of operations shall be pursuant to those set forth in the conditional use Permit issued by Board of Adjustment.
 - e. Waste byproducts (sewage, processed and unprocessed animal parts, manure, entrails, blood, hides and bones) shall be disposed of in accordance with all applicable federal, state, and local regulations. Waste shall be stored in airtight containers and shall be confined in fully enclosed structures.
 - f. All loading and unloading areas shall be reasonably screened from view from adjacent properties and public rights of way.

Section 4.16.2. Required Information for Custom Processing Conditional Use Permit

1. Owner's name, address and telephone number.
2. Legal description of site and site plan.
3. Maximum number and type of animals to be processed in a 24-hour period.
4. Management plan for fly and odor control.
5. Waste byproduct plan.
6. Information on ability to meet designated setback requirements, including site plan.
7. Proof of any required State or Federal permits/licenses.
8. Any other information as contained in the application and requested by the Administrative Official or the Board of Adjustment.

CHAPTER 4.17 REFUSE

In all Zoning Districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a completely enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash.

CHAPTER 4.18 CARETAKER/WATCHMAN'S QUARTERS

1. Caretaker/watchman's quarters on parcels in any commercial or industrially zoned property shall require a conditional use permit.
2. Caretaker or watchman's living quarters shall be limited to not more than one (1) dwelling unit
3. The dwelling unit shall be occupied by person(s) associated with the operation or maintenance of the business or building. If it is found that the occupant(s) are not associated with such operation or maintenance the living area shall be removed.
4. The total area of the dwelling unit shall consist of not more than (30%) of the total area of the building.
5. The dwelling unit shall maintain an entrance other than that of the business associated with the caretaker or watchman's living quarters. Exceptions:
 - a. If a single entrance enters into a common hallway or corridor in which the business and dwelling unit are entered separately, the dwelling unit may be allowed to use the same entrance as the business.
 - b. Entrance to the dwelling unit is accessible only by employees of the business.

CHAPTER 4.19 HOME OCCUPATION

A home occupation is a business conducted in a dwelling unit, provided that the occupation is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use. For the purposes of minimizing conflicts with neighboring residentially used property, the Town of Brandt has established minimum performance standards for Home Occupations.

Section 4.19.01 Performance Standards.

1. No person other than members of the family residing on the premises shall be engaged in such occupation;
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than 25 percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation. Exception: in-home day cares providing care for less than 12 children in a 24-hour period may utilize more than twenty-five percent (25%) of the floor area of the dwelling unit;
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two (2) square-foot in area, non-illuminated, and mounted flat against the wall of the principle building; and
4. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, 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 line voltage off the premises.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.
6. Notwithstanding the preceding standards, any operation that provides care for more than 12 children in a 24-hour period shall not be considered a home occupation.

CHAPTER 4.20 BED AND BREAKFAST (B & B'S)

A Bed and Breakfast (B & B's) is a private single-family residence, which is used to provide limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding residential properties and should comply with the following conditions:

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.

2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.
4. Such uses shall be an incidental use with an owner-occupied principle dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.
5. Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principle use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.
6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty (120) day consecutive period.
7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

CHAPTER 4.21 ADULT USES

In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

Section 4.21.01 Setbacks.

1. None of the following uses may be established, operated or maintained within four hundred (400) feet of a residence, a cemetery, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.
 - a. Adult bookstore.
 - b. Adult motion picture theater.
 - c. Adult photo studio.
 - d. Adult Entertainment Facility.

- e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - f. Any use intended to provide adult amusement or entertainment.
2. Not more than two of the following uses may be established, operated or maintained within three hundred fifty (350) feet of each other:
- a. Adult bookstore.
 - b. Adult motion picture theater.
 - c. Adult photo studio.
 - d. Adult entertainment facility.
 - e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - f. Any use intended to provide adult amusement or entertainment.
 - g. A bar.
 - h. A liquor store.
3. The 350-foot restriction provided for in 4.21.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:
- a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.
 - b. That the proposed use will not enlarge or encourage the development of a 'skid row' area.
 - c. That all applicable regulations will be observed.

Section 4.21.02 Required License.

It shall be unlawful for any person to engage in the business of operating an adult use in the Town of Brandt without first having obtained a license from the Town Board.

Section 4.21.03 Application; Standards for Issuance.

1. Application for an adult use license shall be made in writing and shall state the following:
- a. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.
 - b. The location of the adult use business.

- c. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.
 - d. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.
 - e. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.
 - f. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.
2. Within forty-five (45) days after receipt of an application for an adult use license, the Town Board shall investigate the information contained in the application and shall determine the following:
 - a. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of the Town, including zoning ordinances.
 - b. That the premises and each manager and employee comply with the provisions of Section 4.21.03.1 as such provisions apply to them.
 - c. That the applicant, each manager and each employee are over twenty-one (21) years of age.
 - d. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.
 3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 4.21.03 within forty-five (45) days after completion of such investigation, the Town Board shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.
 4. If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 4.21.04 within forty-five (45) days after completion of such investigation, the Town Board shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the Town with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

Section 4.21.04 Conditions & Regulations Governing Operation; Violation; Penalty.

1. The following regulations shall govern and control the business of operating an adult use in the Town of Brandt:
 - a. No person under twenty-one (21) years of age shall be allowed on the licensed premises.
 - b. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.
 - c. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the Town Board written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 4.21.03.
 - d. No adult use shall be located on premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.
 - e. No adult use shall be permitted unless the premise on which such business is located complies with the requirements of the zoning ordinance.
 - f. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.
 - g. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.
 - h. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.
2. In addition to the requirements established in Section 4.21.04.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on premises by use of motion picture devices or other such operations means:
 - a. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.
 - b. There shall be no aperture whatsoever in any wall or partition between viewing areas.
 - c. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.
3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment facility:

- a. All performers shall be at least twenty-one (21) years of age.
 - b. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.
 - c. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.
 - d. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.
4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the Town to fail to comply with the conditions and regulations set forth in subsections 4.21.03 and 4.21.04 of this section as they are applicable to the licensed business, or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.
 5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 1.02.02 of this Ordinance.

Section 4.21.05 Suspension or Revocation.

1. Nothing in the terms of this article shall preclude the right of the Town Board to suspend or revoke the license of the licensee, as follows:
 - a. The Town Board may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7) day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.
 - b. The Town Board may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the Town Board determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such

information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

CHAPTER 4.22 SHOP-STYLE DWELLING STANDARDS.

Shop-style dwellings may only be permitted provided the following conditions are met:

1. The construction of shop-style dwellings shall meet the requirements of Chapter 4.12 Permanent Foundations Required for Dwellings;
2. Shop-style dwellings shall have a gross floor area of not less than fifty (50) percent of the structure dedicated to dwelling purposes;
 - i. Gross area is the sum of the gross horizontal area of all floors of a building measured from the exterior walls, but not including the basement or attic areas not intended for living space.
3. The owner of the building must actively reside in the living area of the structure a minimum of six months a year;
4. The owner of the building may not lease any or all portion of the building to any other person;
5. The storage/garage area must be completely within the enclosed building;
6. There must be separate outside entrances for the living area and storage/garage area;
7. The separation wall between the storage/garage and living area shall be 5/8-inch fire-code drywall;
8. The living area must include a full kitchen, living area, full bathroom, at least one bedroom and laundry facilities;
9. Shop-style dwellings do not include structures with corrugated steel siding.
10. Shop-style dwellings shall include more than one roofline.
11. Shop-style dwellings are required to obtain written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and of fifty (50) percent of the property owners within two hundred fifty (250) feet (excluding streets and alleys) of said proposed shop-style dwelling property line.
12. Figures 4.22.5.a and 4.22.5.b (below) includes examples of dwellings which may meet the definition of "Shop-style dwellings" and the conditions of Chapter 4.22:

Figure 4.22.5. a



Figure 4.22.5.b



12. Figure 4.22.6.a and 4.22.6.b (below) includes examples of dwellings that either do not meet the definition of “Shop-style dwellings” or they do not meet all of the requirements of Chapter 4.22:

Figure 4.22.6.a



Figure 4.22.6.b



CHAPTER 4.23 CANNABIS DISPENSARIES

1. Maximum Number of Cannabis Dispensaries.

- a. In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.
- b. The Town shall allow up to 1 cannabis dispensaries provided the time, place, and manner of said dispensaries comply with this ordinance.

2. Required Separation Distances

- a. A cannabis dispensary shall be located not less than one thousand (1,000) feet from a public or private school existing before the date of the cannabis dispensary application;
- b. A cannabis dispensary shall be located not less than two hundred fifty (250) feet from a public park and recreation area existing before the date of the cannabis dispensary application;

- c. A cannabis dispensary shall be located not less than two hundred fifty (250) feet from a public library, church, and day care facilities.
 - d. Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived, provided:
 - i. The applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.
3. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed.
4. Other Locational Requirements
- a. Permanent or temporary dispensaries are prohibited in all other zoning districts and not eligible for a home occupation use.
 - b. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.
5. Controlled Access - No cannabis establishment shall share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.
6. Hours of operation:
- a. Cannabis dispensaries are allowed to be open daily between the hours of 7:00 a.m. and 12:00 midnight.
7. Documentation of State Licensure.
- a. No cannabis dispensary shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, paraphernalia without providing documentation of licensure from the State of South Dakota.
8. The zoning official is authorized to issue permits (building/use) for cannabis dispensaries subject to following:
- a. Submission of a site plan containing the following:
 - i. Any information required for applicable building permit,
 - ii. Ingress and egress plan
 - iii. Parking plan
 - iv. Lighting plan (including security lighting)

- v. Screening/security fencing plan,
 - vi. Refuse plan;
 - vii. Hours of Operation;
 - viii. Any other information as lawfully may be required by the Zoning official to determine compliance with this ordinance.
9. Documentation of ability to meet setback/separation requirements.
10. Documentation of State Licensure.
11. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

**ARTICLE V
DEFINITIONS**

CHAPTER 5.01 GENERAL TERMS

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used

in the present tense shall include the future;

the singular number shall include the plural;

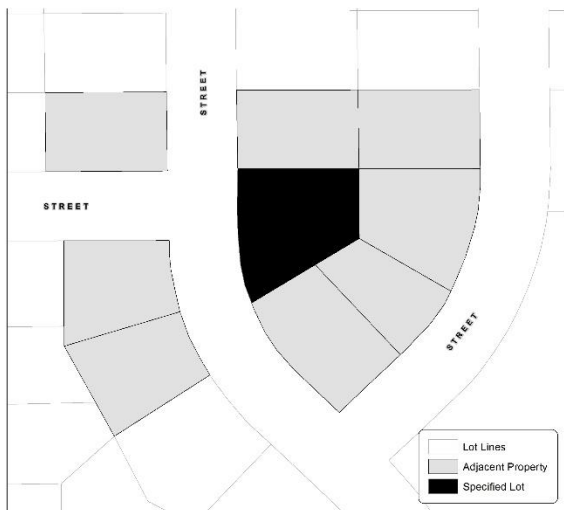
and the plural includes the singular.

The word “building” shall include the word “structure,” and the word “shall” is mandatory, not discretionary, the word “may” is permissive;

The word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word “lot” includes the words plat or parcel and the words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied. Any word not herein defined shall be as defined in any recognized Standard English Dictionary.

Accessory Use or Structure. As applied to use or structure means customarily or incidental to, and on the premises of such use or structure.

Adjacent Property. Any lot, parcel, or property bordering by means of adjoining, abutting, or intersecting a specified lot boundary, and those lots immediately across a public right-of-way from a specified lot. See Figures Below.



Administrative Official. The individual(s) appointed by the Town Board and designated to administer and enforce the zoning ordinance.

Adult Bookstores. An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

Adult Entertainment Facility. Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

Adult Motion Picture Theater. An enclosed building, regardless of its seating capacity which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Photo Studio. An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing “specified anatomical areas”, as herein defined.

Adult Use. The term “adult use” shall include adult entertainment facility, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

Aggrieved person. A person aggrieved is any person directly interested in the outcome of and aggrieved by a decision or action or failure to act pursuant to this ordinance who.

1. Establishes that the person suffered an injury, an invasion of a legally protected interest that is both concrete and particularized, and actual or imminent, not conjectural or hypothetical;
2. Shows that a causal connection exists between the person's injury and the conduct of which the person complains. The causal connection is satisfied if the injury is fairly traceable to the challenged action, and not the result of the independent action of any third party not before the court;
3. Shows it is likely, and not merely speculative, that the injury will be redressed by a favorable decision, and;
4. Shows that the injury is unique or different from those injuries suffered by the public in general.

Agricultural Activity. The raising of grain crops and/or animals.

Airport. A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

Alley. A minor way, dedicated to public use, which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

Agriculture. The cultivation of the soil and all activities incident thereto, except that said term shall not include the raising and feeding of hogs, sheep, goats, cattle, poultry or fur bearing animals.

Animal unit. One animal unit is equivalent to 1.0 beef cow, steer or fat beef animal, 0.5 horse; 0.7 mature dairy cow; 1.7 finishing swine; 6.7 sheep/goats; 33 hens, cockerels, capons, or broilers; 5 ducks/geese; 55 turkeys;

Apartment. A room or suite of rooms designed for, intended for, or used as a residence for one family or individual and equipped with cooking facilities.

Apartment Building. An apartment building is a detached dwelling designed for, or occupied by, three or more family units.

Attached Garage: A garage which is attached by a common wall side by side, extending from the basement floor to the roof, or a detached garage which is within ten (10) feet of the dwelling.

Automobile Service Station. (See "Service Station, Automobile.")

Bar/lounge/tavern. An establishment that is licensed to sell alcoholic beverages by the drink.

Basement. A basement is any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

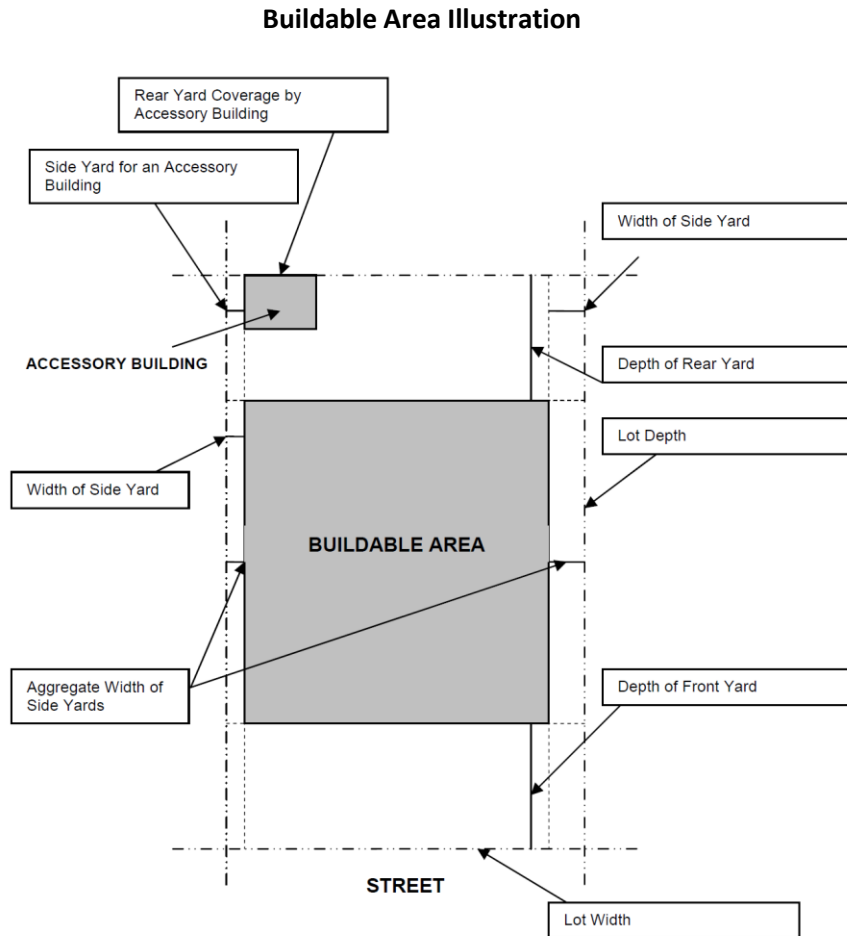
Bed and Breakfast (B & B's). A private single-family residence, which is used to provide limited meals and temporary accommodations for a charge to the public.

Block. An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river, lake or rail line.

Boarding House. A building other than a motel, hotel or restaurant, where lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons, and not open to public or transients.

Buffer. The use of land, topography, space, fences, or landscape planting to partially screen a use or activity from another property and thus reduce undesirable views or influences.

Buildable Area. That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards. The diagram below illustrates the buildable area of a hypothetical lot. This diagram is for reference only. Setbacks and other requirements vary from district to district. (See illustration below).



Building. A structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

Building Height. The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

Building Line. Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

Butcher Shop. A retail store supplying meat and poultry products where meat processing is limited to making cuts of meat from pre-processed carcasses.

Campground. Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

Cannabis (or Marijuana). All parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. (hemp) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

Cannabis Cultivation Facility. This term is defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

Cannabis Dispensary. This term is defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

Cannabis Establishment. A cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

Cannabis Product Manufacturing Facility. This term is defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

Cannabis Products. Any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

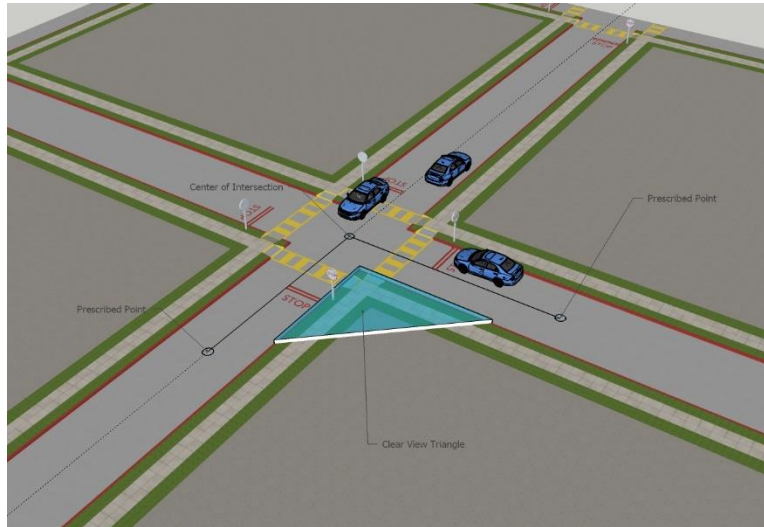
Cannabis Testing Facility. This term is defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

Car Wash. A facility used to clean the exterior, and sometimes the interior, of automobiles.

Caretaker's Residence/Watchman's Quarters. A Dwelling unit which is occupied by one who is employed by a business located on the same premises or within the same structure as said dwelling unit.

Church. A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. The definition of "church" includes all religious institutions.

Clear View Triangle. A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



Clinic: An establishment where patients are not lodged overnight, but are admitted for examination and treatment by physicians, psychologists, optometrists, chiropractors or dentists and other health care professionals practicing medicine together and including facilities for training and rehabilitation.

Commercial Storage, Mini-Storage Facilities. Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

Commercial Vehicle. Any motor vehicle, trailer, or semi-trailer designed or used to carry freight, passengers for a fee, or merchandise in the furtherance of any commercial enterprise and having a gross weight of more than 10,000 pounds.

Commission: The Planning Commission of the Town of Brandt, South Dakota. "See also Planning Commission."

Conditional Use. Means a use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in this ordinance. Conditional uses are subject to evaluation and approval by the Board of Adjustment and are administrative in nature.

Condominium. The ownership of single units in a multi-unit residential structure with common elements. (With the property subject to the condominium regime established pursuant to SDCL 43-15A.) Commercial uses may occupy properties platted pursuant to SDCL 43-15A, however where referenced herein, the term "condominium" only authorizes the structure to be used for residential purposes. This Ordinance does not differentiate between the manner of ownership of non-residential uses.

Comprehensive Plan (Comprehensive Land Use Plan). The adopted long-range plan intended to guide the growth and development of the Town of Brandt including a compilation of policy statements, objectives, standards and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in current State law.

Construction. Means in general, initiation of physical on-site construction activities which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and erection of permanent structures.

Construction, Actual. Construction materials are being permanently placed and the construction work is proceeding without undue delay.

Contractor Shops And Storage Yards. Those facilities include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

Convenience Store. Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit. Convenience stores may or may not sell fuel.

Court: An open unoccupied space bounded on two or more sides by the exterior walls of a building or buildings on the same lot.

Curb Level: The curb level is the level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the Town Engineer shall establish such curb level or its equivalent for the purpose of this Ordinance.

Custom Processing. “Custom Processing” means eviscerating, dressing, or processing an animal or processing meat products.

Day Care. Any operation, which provides childcare services whether accessory to the caregiver’s home or operated in a separate commercial structure.

Day Care Center. Any operation which provides childcare services. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

Density. The number of families, individuals, dwelling units, or housing structures per unit of land.

Development. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

Development Lot Agreement (DLA): an agreement joining one or more lots together as one parcel for the purpose of development. A development lot agreement may be required to officially join parcels to comply with zoning requirements.

Dwelling. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either permanently or transiently.

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

Dwelling, Single Family. A detached residential dwelling building, other than a manufactured home but to include modular homes, designed for and occupied by one family only.

Dwelling, Two Family. A residential building containing two dwelling units, designed for occupancy by not more than two (2) families.

Dwelling Unit. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may in the same structure, and containing independent cooking and sleeping facilities.

Electronic Message Sign. A sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

Engineer. Means any engineer licensed by the State of South Dakota.

Evergreen or coniferous tree. For the purposes of this ordinance is defined as any cone bearing shrub or tree and any plant that retains its foliage throughout the year which is a minimum height of four feet measured above immediate ground level.

Essential Public Utilities and Services. Overhead or underground electrical, natural gas, water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures used by public for protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, satellite dishes, and accessories in connection therewith.

Exception. An exemption to a specified regulation within this Ordinance which, unless otherwise specified, may be authorized by the administrative official.

Extended Home Occupation. A home occupation conducted outside of the residence and/or in an accessory building.

Family. One or more individuals living, sleeping, cooking or eating on the premises as a single dwelling unit; but it shall not include a group or more than five (5) individuals not related by blood or marriage.

Farm. A bonafide business for the production of agricultural products and the incidental use of horses, dogs, or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations.

Feedlot. A feedlot is a lot, yard, corral, building or other area where have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (12)-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility.

Filling (service) Station. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, but where the following activities are not carried out as a normal part of doing business.

1. Major mechanical work, involving removal of the head or crankcase;
2. Auto body work, including straightening of auto body parts.
3. Painting or welding of any automobile parts;
4. Storage of automobiles not in operating condition, and
5. Any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normally found at places which sell gasoline at retail.

Flammable Liquids. Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of eighty (80) degrees Fahrenheit, is flammable.

Flashing Sign. Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information, shall not be considered a flashing sign.

Funeral Home. A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this Ordinance, includes a funeral chapel but does not include crematoriums.

Garage, Private. An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, and boats, but not commercial vehicles.

Garage, Public. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, Storage. Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Governmental Agency. An organized entity which, in addition to having governmental character, has sufficient discretion in the management of its own affairs to distinguish it as separate from the administrative structure of any other governmental unit. This definition shall be deemed to include, but is not limited to The Town of Brandt, Moody County, the State of South Dakota, and any school district serving the Town of Brandt.

Grade. The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Greenhouse. A building whose roof and sides are made largely of glass regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Gross floor area. The total area of all floors of a building, including intermediately floored tiers, mezzanine, basements, etc., as measured from exterior surfaces of the outside walls of the building.

Group Home. A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

Height of Structure. The vertical distance from the established average sidewalk grade of street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

Home Occupation. See Chapter 4.19

Hotel or Motel. A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four (4) or more guest rooms, and which is open to the public and transients.

Indoor Recreation Facility, Commercial. An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support.

Intermodal Shipping/Storage Container. A six-sided metal unit constructed as a general cargo container used for the transport and storage of goods and materials. Intermodal shipping/storage containers do not include railroad cars, bus bodies, semi-trailers, and similar items designed to be permanently attached to a chassis. See image below.



Junk Yard. The use of more than fifty (50) square feet of any land, building, or structure, whether for private or commercial purposes, or both, where waste discarded or salvaged materials such as scrap metals, used building materials, used lumber, used glass, discarded vehicles, paper, rags, rubber, cordage, barrels, machinery, etc., or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

Kennel. Any place, including pet shelters, where more than three (3) dogs or cats over four (4) months of age are owned, boarded, raised, bred or offered for sale.

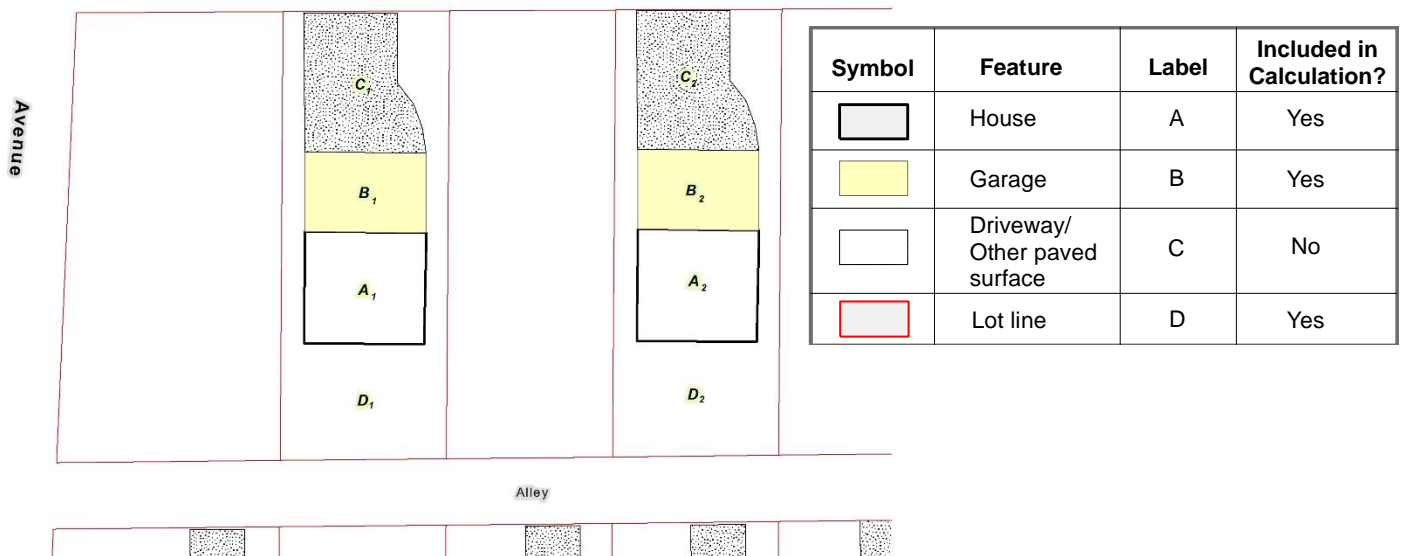
Light Manufacturing. Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

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

Lot. A parcel or tract of land having specific boundaries, and which has been recorded in the Register of Deeds office. A lot shall include only one (1) principal building together with its accessory buildings; open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

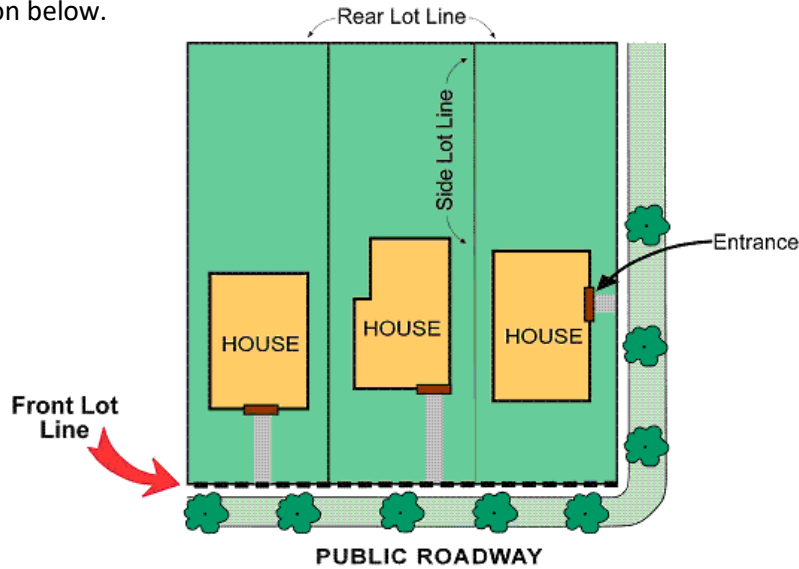
Lot Coverage. The percentage determined by dividing the area of a lot covered by the total (in square feet of. (A) the footprint of the primary structure; and (B) the footprint(s) of all accessory structures by the total lot area (D). (See formula and figure below).

Formula:
$$\frac{(A + \sum B)}{D} = \text{Lot Coverage}$$



Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

Lot Line. means the property line bounding a lot. There are three types of lot lines: Front, Side and Rear. See illustration below.



Lot Measurements.

1. Depth. The average mean horizontal distance between the front and rear lot lines.
2. Width. The width of a lot at the front yard line.
3. Area. The lot area is the area of a horizontal plane in square feet or acres within the lot line.

Lot of Record. A lot which is part of a subdivision recorded in the office of the Lake County Register of Deeds, prior to the adoption of Ordinance 286 on July 12, 1999.

Lot Types. See figure below.

A	B	B	B	B	A	A
A	A	C	B	B	A & D	A /
A	B	B	B	B	B & D	C & D
					A & D	A
					A	A

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

Interior Lot. Defined as a lot other than a corner lot with only one frontage on a street. (Lot B)

Through Lot. defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. (Lot C and Lot C & D).

Reversed Frontage Lot. defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (Lot A & D in the diagram), an interior lot (Lot B & D in the diagram) or through lot (Lot C & D in the diagram).

Manufactured Home. See Section 4.12.02

Modular Home. See Section 4.12.01

Manufactured Housing Definitions.

1. **Anchoring System.** An approved system of straps, cables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured or mobile home.
2. **ANSI/NFPA 501A Standards for Installation of (Manufactured) Mobile Homes.** Model national standards (including all authorized successor documents) for installation of manufactured and mobile homes, as adopted and copyrighted by the National Fire Protection Association and Manufactured Housing Institute.
3. **Expando Unit.** An expandable manufactured housing unit.
4. **Foundation Siding/Skirting.** A type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood or other approved materials, enclosing the entire undercarriage of the manufactured.
5. **Permanent Perimeter Enclosure.** A permanent structural system completely enclosing the space between the floor joists of the home and the ground.
6. **Permanent Foundation.** Any structural system for transporting loads from a structure to the earth at a depth below the established frost line without exceeding the same bearing capacity of the supporting soil.
7. **Section.** A unit of a manufactured home at least ten (10) body feet in width and thirty (30) feet in length.
8. **Support System.** A pad or combination of footings, piers, caps, plates, and shims, which, when properly installed, support the manufactured or mobile home.

Measurement. Unless otherwise specified, all distances shall be measured horizontally and shall be expressed to the nearest integral foot. If a fractional distance is one-half (1/2) foot or less, the preceding or lesser integral foot measurement shall control.

Mining. The excavation of earth materials for the purpose of sale.

Modular Home: See Chapter 4.12.01.

Motel/Hotel. A building or group of buildings used primarily for the temporary residence of motorists or travelers.

Moved-In Building. A building that previously existed on a lot of different location relocated for use as a residence, out-building, commercial, and industrial or any building used in relation to these uses shall be recognized as a moved-in building.

Nonconforming Use. Any building or land lawfully occupied by a use at the time of passage of this ordinance or amendment which does not conform after the passage of this Ordinance or amendment with the use regulation of the district in which it is situated.

Non-standard Use. The category of nonconformance consists of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this Ordinance which fail to comply with any of the following. minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this Ordinance.

Outdoor Advertising Business. Provisions of outdoor displays or display space on a lease or rental basis only.

Outdoor Display. An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service. This definition excludes new and used sale, lease, or rental of automobiles, trucks, motorcycles, recreational vehicles, boats, or watercraft.

Outside Storage. Outside storage is the keeping of commodities, goods, raw materials, equipment, vehicles, heavy vehicles, or merchandise not within an enclosed building, including incidental maintenance and repair of the material which is being stored. This definition excludes new and used sale, lease, or rental of automobiles, trucks, motorcycles, recreational vehicles, boats, or watercraft. Parking of company owned automobiles that are currently registered, licensed, and operable will be excluded. Materials and equipment that are transferred from an enclosed building for an outdoor sales display are not considered outside storage.

Parcel. A single tract of land, located within a single block, which at the time of filing for a Building/Use Permit, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure, for which the Building/Use Permit are issued and including such area of land as may be required by the provisions of this Ordinance for such use, building or structure.

Parking Space. A space for parking of automobiles which has a minimum width of nine (9) feet and a minimum length of nineteen (19) feet.

Permanent Perimeter Enclosure. A permanent perimeter structural System completely enclosing the space between the floor joists of the home and ground. See also Chapter 4.12

Permit. A permit required by these regulations unless stated otherwise.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person. In addition to an individual, includes the following terms. “firm”, “association”, “organization”, “partnership”, “trust” “company”, or “corporation” joint venture, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Personal Services. These establishments offer a wide range of personal services (laundry, hair care, etc.).

Planning Commission. The members of the Town Board serving in an advisory capacity on planning and zoning matters. The “Planning and Zoning Commission” required in SDCL 11-6-2 shall be referred to throughout this document as the “Planning Commission.”

Plat. The map, drawing or chart on which the subdivider’s plan of subdivision is legally recorded.

Principal Use. The primary use to which the premises are devoted.

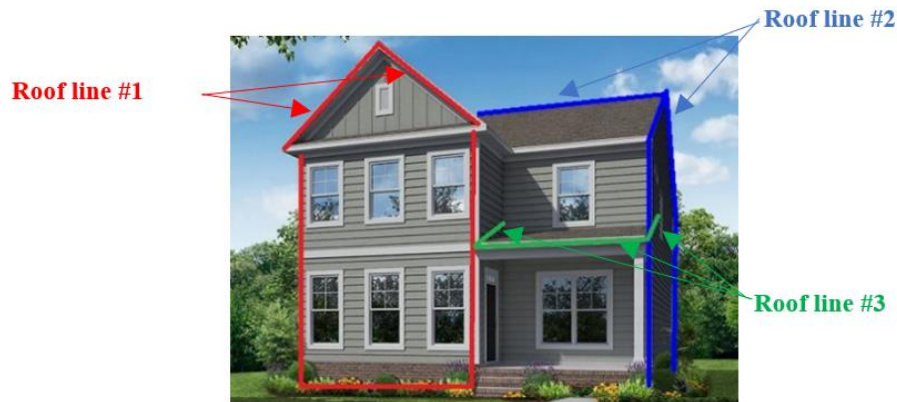
Professional Services. Work done for others, predominately on the premises of the office, by someone trained and engaged in such work for a career; e.g., doctors, lawyers, accountants.

Recreational Vehicle. A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

Religious Institution. Any building used for non-profit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to. church, temple, synagogue, and mosque.

Roof line. Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette; and where a building has several roof eaves, this roof or parapet shall be the one belonging to that portion of the building on whose wall a sign is located. (See roof-line figure below)

Roof Line Figure



Sanitary Landfills. Method of waste disposal involving the dumping and daily covering of waste material all in compliance with State regulations.

Sale or Auction Yard/barn. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

Sanitary Landfills. Method of waste disposal involving the dumping and daily covering of waste material all in compliance with State regulations.

Screening. Earthforms, walls, fences, plant material or other structures or devices intended to partially obscure, conceal or protect from off-site view.

Service Station, Automobile. Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

Setback. The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

Sheet Siding. Any siding material customarily installed as a sheet and composed of galvanized, painted or bonded metal, and customarily installed in a vertical manner but also capable of being installed horizontally.

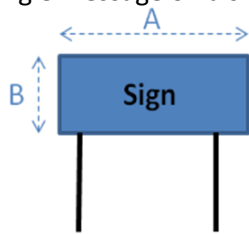
Shopping Center. Retail buildings of greater than 100,000 square feet and designed for more than one tenant.

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

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

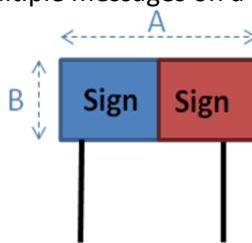
Sign Area. The total area or areas of all signs within the outer edges of the sign or advertising message. Sign area may be calculated in the following manners.

- A. A single message on a single sign face.



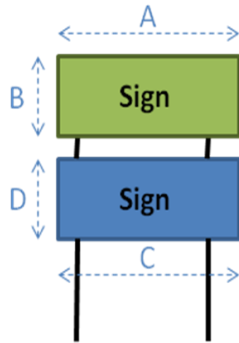
$$\text{Area} = A \times B$$

- B. Multiple messages on a single sign face.



$$\text{Area} = A \times B$$

C. Multiple messages on stacked signs.



$$\text{Area} = (A \times B) + (C \times D)$$

Sign (Flashing): Means any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

Sign (Ground). A sign which is anchored to the ground and has no air space between grade and the bottom of the frame or sign facing.

Sign (Illuminated): Means any sign which has characters, letters, figures, designs, or outlines illuminated by electric or luminous tubes as a part of the design.

Sign (Nameplate): Means any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

Sign (Parking). A sign which provides specific instruction to the public, including but not limited to. "Center," "Exit," "No Parking," "Drive Through." No parking sign shall be permitted to include any commercial message.

Sign (Pole). A freestanding sign wholly supported by one or more poles.

Sign (Portable). Any sign not permanently attached to the ground or other permanent structure designed to be transported from structure to structure or site to site at periodic intervals. Portable signs include signs attached to or painted on vehicles, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs are temporary signs.

Sign (Projecting). Any sign that is affixed at an angle or perpendicular to a wall of any building in such a manner as to be read either perpendicular or at an angle to the wall on which it is mounted.

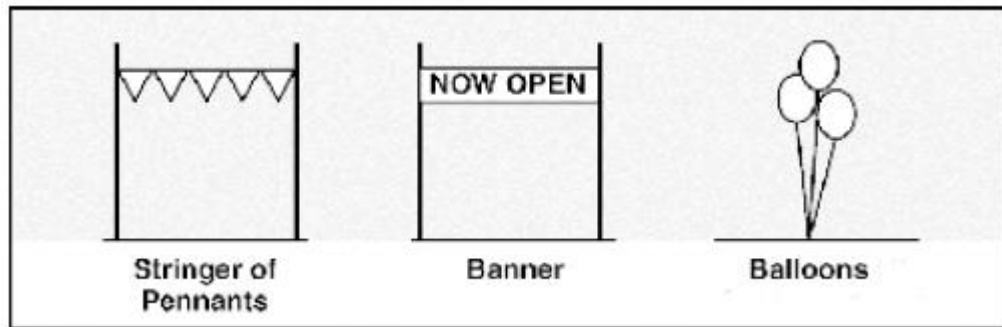
Sign (Real Estate). A sign placed upon property for the purpose of advertising the sale, lease, or availability for rent of property.

Sign (Roof). A sign erected upon and above a roof structure and wholly supported by the roof structure or a structure placed upon the roof. Roof signs shall constitute any message placed upon sloped building fascia intended to appear as or actually be roof elements of the building.

Sign Structure. Any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

Sign (Rotating): A sign which revolves or rotates on its axis by mechanical means.

Sign (Temporary). Any sign used for varying periods of time which is not permanently attached to the ground or other permanent structure. See below examples of Temporary Signs (not all inclusive)



Sign (Wall). A sign placed flat against a structure, fence or wall. Signs painted onto a wall, fence, or structure are wall signs.

Slaughterhouse. A facility for the slaughtering and processing of animals and refining of their byproducts for wholesale purposes.

Sleeping Quarters. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Special Permitted Use. Any land use listed as a special permitted use within a zoning district that meets the specified criteria for certification.

Specified Anatomical Areas means.

1. Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and
2. Genitals of humans or animals in a discernible turgid state, even if completely opaquely covered.

Specified Sexual Activities means.

1. Human or animal genitals in the state of sexual stimulation or arousal.
2. Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.
3. Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast.
4. Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or "Adult Entertainment Facility".

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Stand, roadside. A structure for the display and sale of products with no space for customers within the structure itself.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

Story, first. The lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade for more than 50 percent of the total perimeter, or more than eight (8) feet below grade at any point.

Street Line. The edge of asphalt, concrete, or gravel on a street. In cases where curb is provided, the street line is considered in the face of the curb.

Street. A public right-of-way which affords the principal means of access to abutting property. Also, may be referred to as road or highway. The term street shall include and apply to any public way except alleys.

1. **Arterial Street.** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the Town of Brandt.
2. **Collector Street.** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the Town of Brandt.
3. **Local Street.** Any street which is not an arterial street or collector street.

Structure. Anything constructed or erected with an affixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, fences, swimming pool signs, ponds and lagoons.

Structure, Temporary. Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

Subdivision. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Substantially Completed. This term refers to the amount of work required to be completed in association with a Building/Use Permit issued by the Town. In order to be substantially complete, seventy-five (75) percent of the project for which a Building/Use Permit has been issued is required to be finished.

Trailer. Means any of the following.

1. **Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory-equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
2. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
3. **Motorhome.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. **Camper Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Tree. A tree which is required by the Ordinance and meets or exceeds the definitions of deciduous shade trees and evergreen or coniferous trees.

Tree, deciduous shade. A woody plant that normally grows with one main trunk and has a canopy that screens and filters the sun in the summer months.

Tree, evergreen or coniferous. A tree species with foliage that persists and remains green year-round.

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

Usable Open Space: Land area and facilities specifically designated and developed for recreational or social activities of individuals or groups excluding required setback areas, in addition to those areas and facilities designated and developed for the private use of residents of individual dwelling units.

Use. The purpose for which land or premises or a building thereof is designated, arranged or intended, or for which it is or may be occupied or maintained.

Utility. All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

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

Veterinary Clinic. A commercial activity catering to the medical needs of animals and having no outside runs.

Waste. Any garbage, refuse, manure, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954, as amended.

Watchman's Quarters. See Caretaker's Residence/Watchman's Quarters.

Wholesale Merchandising/Trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard. An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line.

Yard, front: A yard extending between the side lot lines across the front of a lot adjoining a public right-of-way.

Depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

1. **Primary Front Yard:** Any front yard adjacent to the street which is used as principal access for the lot. Unless otherwise differentiated, for the purposes of measuring required setbacks the phrases "Front Yard," or "Required Front Yard" refer to the primary front yard.
2. **Secondary Front Yard:** On a lot with more than one frontage, any front yard adjacent to a street which is not used as principal access for the lot. Unless otherwise specified, for the purposes of measuring required setbacks, the minimum setback for all secondary front yards shall equal one-half the required setback for a primary front yard.

Yard Line. See “lot line.”

Yard, Rear. A yard across the whole width of the lot, extending from the rear line of the building to the rear line of the lot. In the case of through lots and corner lots, where there will be no rear yards, but only front and side yards.

Yard, required. That portion of a side, front, or rear yard nearest the designated lot line and having the width or depth required in the district in which it is located.

Yard, Side. A yard between the building and the adjacent sideline of the lot, which separates it from another lot, extending from the front lot line to the rear yard. In the case of through lots and corner lots, side yards remaining after the full and half-depth front yards have been established shall be considered side yards.

Wetland. Any area where ground water is at or near the surface at least six (6) months of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

Zero lot line. The location of a building on a lot in such a manner that the side of a building rests on a lot line.

Zoning District. A section of the Town for which the regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.