

**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 City of Lake Preston, South Dakota.”

Section 1.01.02 Jurisdiction.

The provisions of this Ordinance shall apply to all territory within the boundaries of the City of Lake Preston, South Dakota, as established on the Official Zoning Map of the City of Lake Preston.

Section 1.01.03 Purpose.

The Zoning Ordinance is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. 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, and general welfare of the community.

This ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the City 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:

1. To assist in the implementation of the City of Lake Preston’s Comprehensive Land Use Plan which in its entirety represents the foundation upon which this Ordinance is based.
2. To foster a harmonious, convenient, workable relationship among land uses.
3. To promote the stability of existing land uses that conform with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions.
4. To ensure 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.
5. To prevent excessive population densities and overcrowding of the land with structures.
6. To foster the provision of adequate off-street parking and off-street truck loading facilities
7. To facilitate the appropriate location of community facilities and institutions.
8. To protect and enhance real estate values.

9. To safeguard and enhance the appearance of the community, including natural amenities.
10. 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.

11. 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.

12. 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.

~~In case any building or structure is erected, constructed, reconstructed, altered, converted, moved, or any building or structure or land is used in violation of this Ordinance or other regulation or resolution of the City Council made under authority conferred, hereby the Administrative Official, or the City of Lake Preston, as a corporation or any interested person, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, 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.~~

~~Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in the granting of Variance or Conditional Uses, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than two hundred dollars (\$200) or imprisoned for not more than thirty (30) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.~~

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

- a. Any person who starts work for which a permit (building, conditional use, special permitted use, variance, rezoning) is required by this zoning ordinance, without first securing such permit 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.
 - i. Upon finding such violation, the Administrative Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the Building/Use Permit plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars (\$5.00), including the postage costs.
 - ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated Building/Use Permit, conditional use permit, variance, and/or rezoning 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.
 - iii. 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.
- b. It is declared unlawful for any 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 City Council 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 City.
- c. 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 City of Lake Preston, 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.

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

Section 1.02.04 Repeal of Conflicting Ordinances.

All Ordinances or parts of prior Ordinances in conflict with this Ordinance are hereby declared repealed to the extent necessary to give this Ordinance full force and effect. **Specifically, Ordinance 397-02 and all amendments thereto is repealed.**

Section 1.02.05 Effective Date.

This Ordinance shall take effect and be in force from and after its passage and publication according to **South Dakota Codified** law.

Section 1.02.06 Catch Heads.

~~The catch heads appearing in connection with the sections contained herein are inserted simply for convenience to serve the purpose of an index and they shall be wholly disregarded by any person, office, court, or other tribunal in construing the terms and provisions of this Ordinance.~~

CHAPTER 1.03 OFFICIAL ZONING MAP

Section 1.03.01 Official Zoning Map.

The City 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 Mayor of the City attested by the City 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 **397-02** of the City of Lake Preston, 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 City 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 City Finance Officer or in his/her absence a person designated by the City Council. 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 City Offices, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

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 unsubdivided 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 City of Lake Preston 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 3.04.05 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 or difficult to interpret because of the nature or number of changes and additions**, the City Council may by ordinance, **as provided for in Chapter 3.04, Section 3.04.05 of these regulations**, 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 Mayor attested by the City Finance Officer, and bearing the seal of the City 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 City of Lake Preston, 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.

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations

In the event that the Official Zoning Map becomes difficult to interpret because of the nature or number of changes and additions, the City Council 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.

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 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:
 - a. To exceed the height or bulk;
 - b. To accommodate or house a greater number of families;
 - c. To occupy a greater percentage of lot area;
 - d. 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 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. **It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.**

~~Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the zoning districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by the addition of other uses, or a nature which would be prohibited generally in the district involved.~~

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.

~~And upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.~~

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. 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 ~~City Planning and Zoning Commission~~ **Board of Adjustment** for 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)**

Figure 2.02.03
Example of Addition to a Non-Standard Structure



7.8. "Non-Conforming Land Use" shall be deemed to include non-conforming manufactured home courts existing at the time of the adoption of this Ordinance, and the substitution or replacement of Type I and Type II Manufactured Homes to said manufactured home court shall not be deemed to have changed the use thereof from a non-conforming to a conforming use.

8.9. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning Commission and/or Board of Adjustment as set forth elsewhere in this Ordinance.

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

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

Section 2.02.05 Non-conforming 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 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.

~~There may be one or more districts of each class and where more than one district of a class exists; such districts may be entirely separate and distant from other districts of the same class.~~

Any use or uses not expressly permitted or not permitted by conditional use 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 city-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.04 of these regulations.

The Board of Adjustment may establish additional requirements and standards for uses and structures permitted by Conditional use Permit as conditions to said Conditional use Permit.

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" Single Family Residential District**
- "R2" General Residential District**
- "C1" Central Commercial District**
- "HC" Highway Commercial District**
- "I" Industrial District**

A.1. "A" Agricultural District

The purpose of the "A" Agricultural District is to:

- ~~1. To preserve lands dedicated for open space;~~
- ~~2. To prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.~~
- ~~3. To permit the conduct and perpetuation of certain agricultural pursuits on land within the City of Lake Preston.~~
- ~~4. To ensure adequate light, air and access for various land uses and to provide adequate separation between dwellings and facilities for housing animals.~~

The purpose of the “A” Agricultural District is to protect agricultural land and uses from incompatible land uses and to prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.

B.2. “C1” Central Commercial District

The purpose of the “C1” Central Commercial District is to provide commercial areas oriented to the pedestrian shopper. **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.**

C. “FP” Flood Plain District

FP Flood Plain District: The intent of this overlay district is to protect from—encroachment, watershed areas subject to flooding, backwater, spreading and flood water or overflow of streams or rivers. Land use within the district shall be that of a type not endangered by periodic or occasional inundation, or shall not produce unsanitary or unsafe living conditions.

D.3. “HC” Highway Commercial District

The purpose of the “HC” Highway Commercial District is to

1. To serve the needs of the highway user and the automobile, and in so doing to establish appropriate locations along major streets and highways for highway and automobile-related retail and service establishments in locations which will not cause undue traffic congestion.
2. ~~To accommodate certain light industrial uses able to meet performance standards and commercial uses not compatible with the Central Commercial District.~~
2. **To permit development of highway service centers in the appropriate locations shown in the Comprehensive Land Use Plan. accommodate commercial and certain industrial uses able to meet performance standards and commercial uses not compatible with the Central Commercial District.**

D.4. “I” Industrial District

The purpose of the “I” Industrial District is:

1. ~~To establish and maintain high standards of site planning, architecture, and landscape design that will create an environment attractive to the most discriminating industries and research and development establishments.~~
2. ~~To provide and ensure the continuity of locations for industries that can operate on small sites with minimum mutual adverse impact.~~
3. ~~The provisions of this section shall be administered and enforced in a manner to clearly support objectives of the, community organizations and civic groups to locate industrial development in the City of Lake Preston.~~
4. ~~To reserve appropriately located areas for industrial and related activities.~~
5. ~~To protect areas appropriate for industrial uses from intrusion by inharmonious uses.~~

6. To protect residential and commercial properties and to protect nuisance free, non-hazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck and rail traffic, and noxious fumes, radiation and other hazards incident to certain industrial uses.
7. To provide opportunities for certain types of industrial uses to concentrate in mutually beneficial relationships to each other.
8. To provide adequate space to meet the needs of industrial development, including off-street parking and truck loading areas and landscaping.
9. To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants on nearby uses.
10. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them.

The purpose of the "I" Industrial District is to provide space for a wide range of industrial uses which cannot meet performance standards for the Industrial District. Regulations are intended to provide guidelines for locating activities which may be injurious or offensive to occupants of adjacent areas, or which emit odors, fumes or gases, dust, smoke, noise, or vibrations which are evident beyond the property of such uses.

E.5. "R1" Single-Family Residential District

The purpose of the "R1" Single-Family Residential District is to provide locations for low-density site-built, single-family residential dwellings. Other types of residential dwellings may be permitted based upon complying with site review and adjacent landowner concerns. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible land uses.

F.6 R2" General Residential District

The purpose of the "R2" General Residential District is to provide a broad variety of housing types with an emphasis of the development of a single-family residential manufactured home park located in an appropriate environment. It is the purpose of the "R2" District to encourage site development in accordance with good planning principles; to prevent detrimental effects to the use or development of adjacent properties or the general neighborhood; and to promote the health, safety and welfare of the present and future inhabitants of the City.

The purpose of the "R2" General Residential District is to provide a stable environment for the development of two-family and multiple-Family dwelling units free from incompatible land uses. Other types of residential dwellings may be permitted based upon complying with site review and adjacent landowner concerns.

G. Purpose of Residential Districts, Generally

1. To reserve appropriately located areas for single-family living at reasonable population densities consistent with sound standards of public health and safety with sanitary sewers.
2. To insure adequate light, air, privacy and open space for each dwelling.
3. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excess size in relation to the land around them.
4. To protect residential properties from noise, elimination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influence.

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

a. FP Flood Plain Overlay District

CHAPTER 2.04 "A" - AGRICULTURAL DISTRICT

Section 2.04.01. 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 and sales or auctions yards or barns;
2. Site-built single-family dwellings;
3. Modular homes **subject to Chapter 4.10;**
4. Public parks and recreation areas;
5. **Essential public utilities and services**

Section 2.04.02 Permitted Accessory Uses:

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

1. Accessory uses and structures customarily incidental to permitted uses ~~and structures when established within the space limits of this district.~~ **special permitted uses or conditional uses;**
2. Roadside stands for sales of agricultural products grown or produced on the premises.
3. **Signs subject to Chapter 4.04;**
4. **Home occupations subject to Chapter 4.20;**

Section 2.04.03 Special Permitted Uses:

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

1. **Single Family Dwellings and detached and attached garages utilizing Steel Siding (Conventional Non-Corrugated) siding and roofing materials, subject to Chapter 4.03.**
2. **Attached and detached garages exceeding maximum dimensions and height subject to Chapter 4.03.**
3. **Shop Style Dwellings subject to Chapter 4.22.**

Section 2.04.034 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. Airports; **Intermodal Shipping/Storage Containers**
2. Cemeteries;
3. ~~Commercial or private recreation areas not normally accommodated in commercial areas such as golf courses,~~ **Private** campgrounds, ~~drive-in theatres, riding stables, racetracks, swimming pools, etc.;~~
4. Private clubs;
5. Type I manufactured home **subject to Chapter 4.10;**
6. Type I manufactured home without permanent perimeter foundation; **subject to Chapter 4.10;**
7. Public buildings or facilities erected or established and operated by any governmental agency;
8. Telecommunication facilities;
9. **Extended** Home occupations **subject to Chapter 4.23;**
10. Utility substations;
11. Veterinarian offices and animal hospitals;
12. Nurseries and greenhouses
13. Fisheries services;
14. Game propagation areas;
15. Sewage treatment plants, but not within 80 rods of a residence;
16. ~~Extraction of sand, gravel, minerals and petroleum or natural gas; and~~ **Golf course;**
17. ~~Uses which in the opinion of the Board of Adjustment are not of a conflicting nature or will not be detrimental to the environment of the District.~~ **Commercial Stables and/or commercial kennels with outside runs**

Section 2.04.045 Prohibited Uses.

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

Section 2.04.056 Area Regulations.

1. **Minimum Lot Requirements** – The minimum lot area for permitted uses shall be one (1) acre or forty three thousand five hundred sixty (43,560) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. Uses permitted by conditional use shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of seventy five (75) feet, minimum side yards of thirty (30) feet, and a minimum rear yard of fifty (50) feet. Uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.
3. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed ten (10) percent of the total lot area.
4. **Height Regulations:**
Single family Dwellings – Two and one half (2 ½) stories, excluding basement, or thirty five (35) feet.
Other Allowable Uses – Seventy five (75) feet for towers or steeples and not more than forty five (45) feet for the principal building.

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 2.04.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height
Permitted Use	43,560 square feet	150'	35'
Towers or Steeples			75'
Principal Building associated with a tower or steeple			45'
Conditional Uses	To be determined by the Board of Adjustment		

Table 2.04.056.2

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	Maximum Lot Coverage
Permitted Uses	75'	50'	30'	10%
Conditional Uses	To be determined by the Board of Adjustment			10%

CHAPTER 2.05 “R1” SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 2.05.01 Permitted Uses:

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

1. Site-built single-family dwellings;
2. Modular homes **subject to Chapter 4.10;**
3. Public park and recreation areas;
4. Churches and parish houses;
5. **Essential public utilities and services required by the resident population**
6. **Public buildings or facilities established and operated by any governmental agency.**

Section 2.05.02. Permitted Accessory Uses:

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

1. Accessory uses and structures customarily incidental to permitted uses, **special permitted uses or conditional uses** except stables;
2. **Signs conforming to Chapter 4.04;**
3. **Home occupations subject to Chapter 4.20;**

Section 2.05.03 Special Permitted Uses:

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

1. **Single Family Dwellings and detached and attached garages utilizing Steel Siding (Conventional Non-Corrugated) siding and roofing materials, subject to Chapter 4.03.**
2. **Attached and detached garages exceeding maximum dimensions and height subject to Chapter 4.03;**
3. **Type B modular homes subject to Chapter 4.10;**
4. **Shop Style Dwellings subject to Chapter 4.23;**
5. **Harboring, Raising or Breeding of Chickens subject to Chapter 4.27.**

Section 2.05.034 Conditional Uses:

The following uses may be permitted as a conditional use in the "R1" Single-Family 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. Bed and breakfast establishments;
2. Type I manufactured homes **subject to Chapter 4.10;**
3. Public and private schools;
4. Two-family dwellings;
5. Multiple-family dwellings **up to 8 dwelling units**
6. **Extended** Home occupations **subject to Chapter 4.23;**
7. **Public buildings or facilities established and operated by any governmental agency; In-home nursing or convalescent homes with up to four (4) additional residents other than immediate family;**
8. Hospitals, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance;
9. **Licensed commercial** Day care facilities **Center;**
10. Utility substations;
11. **Private and** Commercial storage buildings used exclusively for storage and not for performance of any other services.
12. **Offices of recognized professions providing such profession is carried on in their respective residence, and there is no display nor advertising except one sign, not exceeding one (1) square-foot in area, non-illuminated, and mounted flat against the wall of the principle building**

Section 2.05.045 Prohibited Uses:

All uses and structures **not listed as a** specifically permitted **use, special permitted use** or **not permitted** by conditional use shall be prohibited in the "R1" Single-Family Residential District."

Section 2.05.056 Area Regulations.

1. **Minimum Lot Requirements:** The minimum lot area for single family residences shall be nine thousand (9,000) square feet. Multiple-family dwelling units up to four units shall have a minimum lot area of six thousand (6,000) square feet for the first dwelling unit plus two thousand four hundred (2,400) square feet for each additional dwelling unit. Multiple family apartments, condominiums and townhouses for single family occupancy of more than four dwelling units shall have a minimum lot area of thirteen thousand two hundred (13,200) square feet for the first four dwelling units plus one thousand eight hundred fifteen (1,815) square feet for each additional dwelling unit. The minimum lot width for single-family residences shall be seventy-five (75) feet. The minimum lot width for two-family and multiple family residences shall be one hundred (100) feet. The minimum lot depth width for residences shall be one hundred twenty (120) feet. Other permitted uses and uses permitted by conditional use shall have a minimum lot area, width, and depth as determined by the Board of Adjustment. All lots shall front on and have ingress and egress by means of a public right of way.
2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area. Lot coverage shall be computed to include a minimum area of one hundred eighty (180) square feet of building area or lot area for automobile storage.
3. **Minimum Yard Requirements:** Single family residential dwellings shall have a minimum **front yard of thirty (30) feet**, measuring the same from the most outward point of the building. In the case of corner lots, both frontage yards shall be provided according to the pattern of existing structures. Single-family residential dwellings shall have **minimum side yards of nine (9) feet, and a minimum rear yard of twenty-five (25) feet**; however, accessory structures may be placed within five (5) feet of an alley. Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.
4. **Height Regulations:**
Single Family Dwellings — Two and one-half (2½) stories, excluding basement, or thirty-five (35) feet.
Other Allowable Uses — Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

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 Manufactured Home/Modular Home/Type B Modular Home on lots platted prior to June 1, 2026	7,500 square feet	50'	35'	35%
Single Family Residential /Type I Manufactured Home / Modular Home/Type B Modular Home on lots platted after to June 1, 2026	9,000 square feet	75'	35'	30%
Two Family Residence (A)	6,000 square feet per dwelling unit	140'	35'	30%
Multiple Family More than 2 Dwelling Units (A)	12,000 plus 1,000 square feet for each dwelling unit over two (2) units	140'	35'	40%
Assisted Living, Nursing and Rest Homes, etc.	2,000 square feet/dwelling unit	60'	35'	40%
Churches and other religious institutions established after June 1, 2026	30,000 square feet	75'	35'*	30%
Other Permitted 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

** All lots shall front on and have ingress and egress by means of a public right-of-way.

Table 2.05.06.2

SYMBOL	Minimum Front Yard*%		Minimum Rear Yard*#	Minimum Side Yard*	
	Primary	Secondary**		Party Wall Side	Non-Party Wall Side
Single Family Residential/Type I Manufactured Home /Modular Home	25'	12.5'	20'	7'	
Two Dwelling Units (A)	25'	12.5'	10'	0'	7'
Multiple Family More than two (2) Dwelling Units (A)	30'	15'	25'	0'	10'
Hospitals, convalescent and nursing homes, supervised care facilities and congregate housing	50'	25'	30'	0'	30'
Churches and other religious institutions established after June 1, 2026	50'	25'	25'	0'	25'
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.

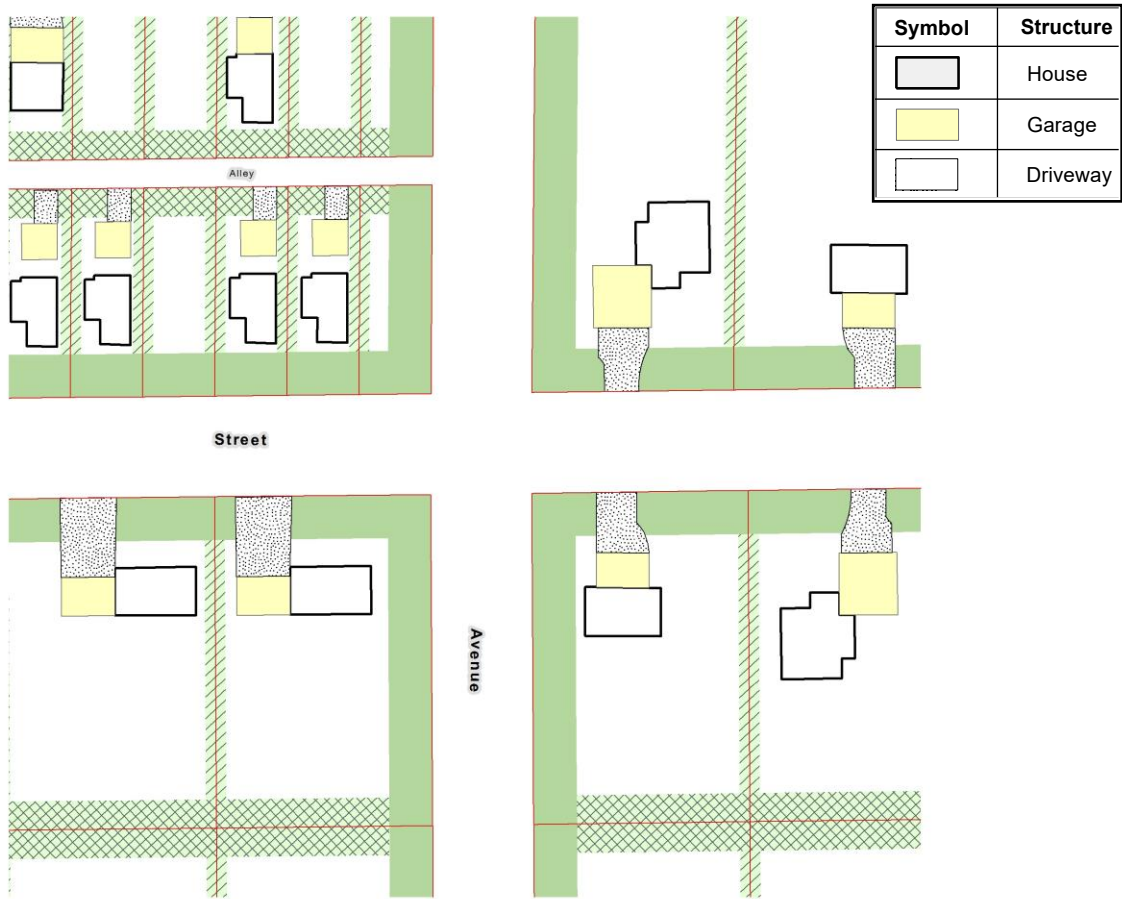
% For the purpose of this ordinance a porch and overhang shall be deemed to be part of said building except as provided for by Article V, Definitions "Yard, Front".

Accessory structures may be placed no closer than (10) feet of an alley. Exception 4.03.9.

** When a setback distance greater or lesser than twenty-five (25) feet 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 and multi-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 "R2" GENERAL RESIDENTIAL DISTRICT

Section 2.06.01 Permitted Uses

The following uses and structures shall be permitted in the "R2" General Residential District:

1. Any permitted use in the "R1" District; **Site-built single-family dwellings;**
2. Two-family dwellings;
3. Multiple-family dwellings
4. Type I manufactured homes **subject to Chapter 4.10;**
5. **Modular homes subject to Chapter 4.10;**
6. **Public Park and recreation areas;**
7. **Essential public utilities and services required by the resident population;**
8. **Public buildings or facilities established and operated by any governmental agency.**

Section 2.06.02 Permitted Accessory Uses:

1. Accessory uses and structures customarily incidental to permitted uses, **special permitted uses or conditional uses except stables;**
2. **Signs conforming to Chapter 4.04;**
3. **Home occupations subject to Chapter 4.20.**

Section 2.06.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "R1" Single Family Residential District.

1. **Single Family Dwellings and detached and attached garages utilizing Steel Siding (Conventional Non-Corrugated) siding and roofing materials, subject to Chapter 4.03.**
2. **Attached and detached garages exceeding maximum dimensions and height subject to Chapter 4.03.**
3. **Type B modular homes subject to Chapter 4.10;**
4. **Shop Style Dwellings subject to Chapter 4.23;**
5. **Harboring, Raising or Breeding of Chickens subject to Chapter 4.27.**

Section 2.06.034 Conditional Uses.

The following uses may be permitted as a conditional use in the "R2" General Residential 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. Any conditional use permitted in the "R1" District; except two family dwellings and Type I Manufactured homes which are a permitted uses in this district;

1. Manufactured Home parks
2. Type II manufactured homes located within manufactured home parks **subject to Chapter 4.10;**
3. Type I manufactured homes without a permanent foundation **subject to Chapter 4.10;**
4. In-home nursing or convalescent homes with up to four (4) additional residents other than immediate family;
5. Group home;
6. **Bed and breakfast establishments subject to Chapter 4.20;**
7. **Funeral homes;**
8. **Churches and other religious institutions and parish houses;**
9. **Public and parochial school;**
10. **Telecommunication facilities;**
11. **Hospitals, nursing homes, and homes for the aged;**
12. **Licensed commercial day care facilities not operated at a residence;**
13. **Utility substations;**
14. **Private and commercial storage buildings used exclusively for storage and not for performance of any other services, provided siding consists of that customarily used for site-built single-family dwellings;**
15. **Extended Home Occupations subject to Chapter 4.23;**
16. **Offices of recognized professions providing such profession is carried on in their respective residence, and there is no display nor advertising except one sign, not exceeding one (1) square-foot in area, non-illuminated, and mounted flat against the wall of the principle building.**

Section 2.06.045 Prohibited Uses:

All uses and structures **not listed as a** specifically permitted **use, special permitted use** or **not permitted** by conditional use shall be prohibited in the "R2" General Residential District.

Section 2.06.056 Area Regulations.

- ~~1. **Minimum Lot Requirements:** The minimum lot area for single-family residences shall be seven thousand (7,000) square feet. Multiple-family dwelling units up to four units shall have a minimum lot area of six thousand (6,000) square feet for the first dwelling unit plus two thousand four hundred (2,400) square feet for each additional dwelling unit. Multiple-family apartments, condominiums and townhouses for single-family occupancy of more than four dwelling units shall have a minimum lot area of thirteen thousand two hundred (13,200) square feet for the first four dwelling units plus one thousand eight hundred fifteen (1,815) square feet for each additional dwelling unit. The minimum lot width for single-family residences shall be fifty (50) feet. The minimum lot width for two-family and multiple-family residences shall be one hundred (100) feet. The minimum lot depth width for residences shall be one hundred twenty (120) feet. Other permitted uses and uses permitted by conditional use shall have a minimum lot area, width, and depth as determined by the Board of Adjustment. All lots shall front on and have ingress and egress by means of a public right-of-way.~~
- ~~2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.~~
- ~~3. **Minimum Yard Requirements:** Single-family residential dwellings shall have a minimum **front yard of thirty (30) feet**, measuring the same from the most outward point of the building. In the case of corner lots, both frontage yards shall be provided according to the pattern of existing structures. Single-family residential dwellings shall have **minimum side yards of seven (7) feet, and a minimum rear yard of twenty five (25) feet**; however, accessory structures may be placed within five (5) feet of an alley. Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.~~
- ~~4. **Height Regulations:**
Single-Family Dwellings — Two and one-half (2-½) stories, excluding basement, or thirty-five (35) feet.
Other Allowable Uses — Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.~~

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 2.06.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential/Type I Manufactured Home/Modular Home on lots platted prior to June 1, 2026	7,000 square feet	50'	35'	35%
Single Family Residential /Type I Manufactured Home / Modular Home/Type B Modular Home on lots platted after to June 1, 2026	9,000 square feet	75'	35'	30%
Two Family Residence	6,000 square feet per dwelling unit	100'	35'	30%
Multiple Family More than 2 Dwelling Units (A)	12,000 plus 1,000 square feet for each dwelling unit over two (2) units	140'	35'	40%
Assisted Living, Nursing and Rest Homes, etc.	1,815 square feet/dwelling unit	140'	35'	40%
Churches, synagogues, chapels and other similar places of worship	30,000 square feet	75'	35'*	30%
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

Figure 2.06.06.1

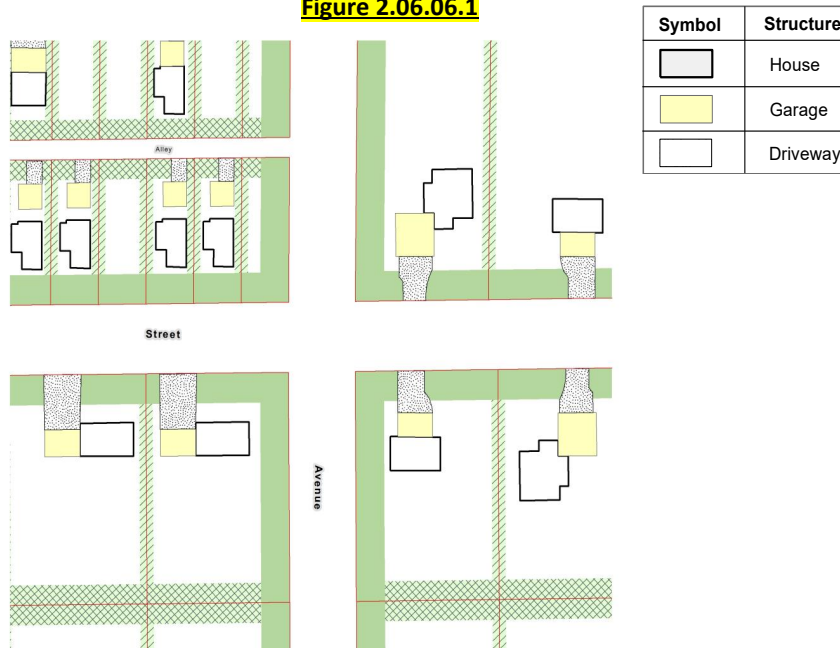


Table 2.06.06.2

	Minimum Front Yard*%		Minimum Rear Yard*#	Minimum Side Yard*	
	Primary	Secondary**		Primary	Secondary**
SYMBOL					
Single Family Residential/Type I & II Manufactured Home /Modular Home	20'	10'	10'	7'	
Two Dwelling Units (A)	25'	12.5'	15'	0'	7'
More than two (2) Dwelling Units (A)	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 June 1, 2026	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 no closer than (10) feet of an alley. Exception 4.03.9.

** When a setback distance greater or lesser than twenty-five (25) feet 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 and multi-family dwellings will be allowed one "shared" wall (required yard = zero (0) feet) provided all other yard requirements are met.

Section 2.06.067 Manufactured Home Park Minimum Standards.

Manufactured home parks shall meet the following minimum standards:

1. Streets.

Each manufactured home shall abut or face a public private roadway or street, such roadway or street having an all-weather surface of at least thirty-four (34) feet in width where parking is permitted on both sides, and twenty-six (26) feet in width where parking is restricted to one side only. Where private streets are proposed, they shall have a minimum right-of-way of forty (40) feet.

2. Open Space or Buffer Zone.

The manufactured home park shall be surrounded by a landscaped open space fifty (50) feet wide along the street frontage of an arterial or collector street and twenty-five (25) feet wide along all other park boundaries or local street frontage, except where walks and drives penetrate the buffer.

3. Lot Area.

Each lot provided for the occupancy of a single manufactured home unit shall not be less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.

4. Density.

No park shall be permitted an average net density of manufactured home lots of more than seven (7) units per acre and each park shall provide an area of not less than two (2) acres.

5. Spacing and Yard Requirements.

All manufactured housing units will be positioned on the manufactured home space in compliance and accordance with the zoning requirements at the time of establishment of the manufactured home Park. Manufactured home parks established after the effective date of this Ordinance, will comply with the following:

a. Front Yard.

All manufactured homes shall be located at least thirty (30) feet from any road or street. The distance will be measured from the wall of the structure to the street or roadway at the closest point.

b. Side and Rear Yards.

All manufactured homes shall have minimum side yards of ten (10) feet and a minimum rear yard of thirty (30) feet.

c. Exceptions to minimum yard requirements.

A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.

A deck may project into a required side or rear yard provided it is located no closer than four feet to any other structure.

An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.

Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or public right-of-way.

d. Maximum Lot Coverage:

No manufactured home shall occupy more than twenty-five (25%) of the area of the lot on which it is situated.

6. Parking

Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants of the manufactured homes and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.

7. Refuse Collection

In the event that there is no individual garbage collection, the City shall require the developer of the manufactured home park to place a refuse collection station for that said purpose. The refuse collection station shall be a minimum of one (1) two-yard dumpster situated on concrete, screened on four sides, for each twelve (12) families or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (50) feet from any trailer unit served, and to be conveniently located for collection.

8. Recreation Area

The City Council may require the developer of the manufactured home park to dedicate no less than 8 percent of the gross site area shall to recreational facilities appropriate to the needs of the occupants. The Planning and Zoning Commission shall approve the designated recreation area.

9. On-Site management

Each manufactured home park may provide on-site management, by the owner or his/her representative. This requirement may be waived if a point of contact is established to ensure that the management, repairs, maintenance and janitorial work connected with the manufactured home park and all provisions of this Chapter are complied with.

10. Water Supply and Distribution System and Sewage Disposal:

Each manufactured home shall be connected to the City sanitary sewer and water system.

11. Tie Down Requirements

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the ~~TR-75, issued June 1972, by the U.S. Department of Defense~~ **Federal Manufactured Housing Construction and Safety Standards Code.**

12. Maximum Age Limitation:

No manufactured home placed within a manufactured home park within the City limits of Lake Preston may exceed ten years from the date of manufacture.

13. Expansion.

Existing manufactured home parks may be extended provided the area of expansion is at least one (1) acre and complies with all other regulations herein set forth.

14. Building/Moved-in Building Permit Required

Whenever a manufactured home is moved into a manufactured home park, a permit from the Administrative Official shall be required.

15. Skirting

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation, approved by the administrative Official, shall be skirted within thirty (30) days of placement.

16. Storm Shelter

Management shall provide or make arrangements for a suitable storm shelter for residents of the court.

17. Existing Courts

Manufactured home courts, which are existing at the time of adoption of this Ordinance, and which meet all requirements of this ordinance, excepting 2.06.06 paragraph 4, shall be allowed to continue provided they are not expanded except in conformance with this Ordinance.

18. Site Lighting

Site lighting shall be provided and used to supplement street lighting and shall be effectively related to toilet and laundry facilities, plantings, walks, steps or ramps. Illumination should be of conservative intensity but sufficiently distributed to eliminate dark areas, especially at steps.

20. Registration

Each manufactured home court shall maintain a register for the registration of all occupants, and such other information as may be required by law.

Section 2.06.078 Application Procedure:

Each application for a Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. Upon approval of the application, the plan becomes part of the permanent record and it shall serve as the basis for the final site plan submission. The plan shall be drawn to scale and indicate the following:

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and City roads/streets;
2. Property lines and square footage of the proposed park;
3. Location and dimensions of all easements and right-of ways;
4. Proposed general lay-out, including parking and recreation areas;
5. General street and pedestrian walkway plan;
6. General utility, water, and sewer plan.

Section 2.06.09 Manufactured Housing Subdivisions.

Nothing in this Ordinance shall be construed to prohibit subdividing an approved manufactured home park development into individual owner occupied lots. However, any such development shall be required to meet the subdivision regulations of the City of Lake Preston.

CHAPTER 2.07 "C1" CENTRAL COMMERCIAL DISTRICT

Section 2.07.01 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. Communication and utility uses;
7. **Public buildings ~~and grounds~~ or facilities erected or established and operated by any governmental agency;**
8. Personal service establishments;
9. Professional, governmental and education services;
10. Bar or tavern;
11. On/Off sale liquor establishments;
12. Printing and publishing establishments;
13. Offices;
14. Parking lot and/or parking garages;
15. Theaters, bowling alleys, and pool halls;
16. Museum
17. Apartments using the upper floors of commercial buildings
18. **Mortuaries Mortuary/Funeral home**
19. **Bed and breakfast subject to Chapter 4.;**
20. **Hotels and motels;**

21. Day care center

Section 2.07.02 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, and 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 “C1” Central Commercial District.

1. (Reserved)

Section 2.07.034. 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. Adult uses;
2. ~~Bed and Breakfast~~ **Telecommunication facilities.**
3. ~~Hotels and motels~~ **Light manufacturing**
4. **Licensed** Day care centers;
5. Lumber yards
6. Garages, Automobile repair shops, and service stations, **Automobile filling station;**
7. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided.
8. ~~Apartments;~~ **Multiple Family dwellings**
9. ~~Other uses, which in the opinion of the Board of Adjustment are of the same general character and not detrimental to permitted uses in the “C1” District as outlined,~~ **Intermodal Shipping/Storage Containers**

Section 2.07.045 Prohibited Uses.

All uses and structures **not listed as a specifically permitted use, special permitted use** or **not permitted** by conditional use shall be prohibited in the "C1" Central Commercial District.

Section 2.07.056 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with Tables 2.07.05.1 and 2.07.05.2. and Figure 2.07.05.1.



Table 2.07.056.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	3,500 square feet	25'	35'	75%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.07.065.1



Table 2.07.056.2

	Minimum Front Yard* $\$$	Minimum Rear Yard# $\$$		Minimum Side Yard*# $\$$	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts
Symbol					
Permitted Uses	25'	<u>0'</u>	<u>20'</u>	<u>0'</u>	<u>10'</u>
Conditional Uses	To be determined by the Board of Adjustment				

Rear and side yards shall be landscaped or fenced in a suitable manner to buffer residential uses

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

2. Screening - Where any use in the "C1" 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 2.08 "HC" HIGHWAY COMMERCIAL DISTRICT

Section 2.08.01. Permitted Uses.

The following uses and structures shall be permitted in the "HC" Highway Commercial District:

- 1. ~~None;~~ Horticulture and the raising of field crops;**
- 2. Automobile filling station, Garages, repair shops, and automobile service stations;**
- 3. Personal services;**
- 4. Utility substations;**
- 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; drugs, 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. General farm products (other than animals), household goods, and equipment maintenance;**
- 7. Mortuary/Funeral home**
- 8. Contract construction services with shop and/or yard;**
- 9. Professional, governmental and education services**
- 10. Truck or bus terminal;**
- 11. Wholesale merchandising or storage warehouse;**
- 12. Hotel/motel;**
- 13. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;**
- 14. Public buildings and grounds;**
- 15. Convenience store;**
- 16. Restaurant;**
- 17. Offices and Financial Institutions;**

18. Private and commercial storage buildings used exclusively for storage and not for performance of any other services;

19. Nursery/Greenhouse

Section 2.08.02. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "HC" Highway Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses, **special permitted uses**, and conditional uses;
2. **Signs conforming to subject to Chapter 4.04;**
3. **Caretaker and watchman quarters subject to Chapter 4.21;**
4. **Intermodal Shipping/Storage Containers in the side and/or rear yard**

Section 2.08.03. Special Permitted Uses:

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

1.

Section 2.08.034 Conditional Uses.

The following uses may be permitted as conditional uses in the "HC" Highway Commercial District by the City Board of Adjustment **subject to such requirements, as the Board deems necessary to protect and promote the health, safety and general welfare.**

1. **Horticulture and the raising of field crops; Welding shops;**
2. **Garages, repair shops, and service stations; Automotive body repair and glass;**
3. **On-site signs; Light manufacturing;**
4. **Utility substations; Cannabis Dispensary subject to Chapter 4.26;**
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; drugs, 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; multi family dwellings;**

6. General farm products (other than animals), household goods, and equipment maintenance; **Adult Uses;**
7. Motor freight terminals, garaging and equipment maintenance; **Bulk fuel or storage of petroleum products for wholesale;**
8. Mortuaries; **Telecommunication facilities;**
9. Contract construction services;
10. Off-site signs;
11. Truck or bus terminal;
12. Wholesale merchandising or storage warehouse;
13. Hotel/motel;
14. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;
15. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors.
16. Other uses which in the opinion of the Board of Adjustment are of the same general character and not detrimental to permitted uses in the "HC" District as outlined;

Section 2.08.045 Prohibited Uses.

All uses and structures **not listed as** specifically permitted **use, special permitted use** or **not permitted** by conditional use shall be prohibited in the "HC" District.

Section 2.08.056 Area/Construction Regulations.






1. **Minimum Lot Requirements:** The minimum lot area for permitted uses shall be forty three thousand five hundred and sixty (43,560) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. The minimum lot area and width for uses permitted by conditional use shall be as determined by the Board of Adjustment.
2. **Minimum Yard Requirements:** Permitted uses shall have a minimum front yard of thirty five (35) feet, minimum side yards of twenty (20) feet, and a minimum rear yard of thirty (30) feet. The minimum side or rear yard requirement shall be thirty five (35) feet when the permitted or conditional use is adjacent to residentially zoned property. The minimum yard requirements for uses permitted by conditional use shall be as determined by the Board of Adjustment.
3. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed seventy five percent (75%) of the total lot area. The maximum lot coverage for uses permitted by conditional use shall be as determined by the Board of Adjustment.
4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed forty five (45) feet.

1. **Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with Tables 2.08.05.1 and 2.08.05.2 and Figure 2.08.05.1.**
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 2.08.05.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	43,560 20,000 square feet	150' 100'	45'	75%
Conditional Uses	To be determined by the Board of Adjustment			

Table 2.08.05.2



	Minimum Front Yard*	Minimum Rear Yard*#		Minimum Side Yard*#	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts
Symbol					
Permitted Uses	35' 25'	30' 20'	30'	30' 20'	35' 30'
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.

Rear and side yards shall be landscaped or fenced in a suitable manner to buffer residential uses

Figure 2.08.05.1



Symbol	Structure
	Business
	Parking/ Driveway

CHAPTER 2.09 "I" – INDUSTRIAL DISTRICT

Section 2.09.01 Permitted Uses.

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

- 1. None Horticulture and the raising of field crops;**
- 2. Utility substations;**
- 3. Motor freight terminals, garaging and equipment maintenance;**
- 4. Contract construction services with shop and/or yard;**
- 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. Automotive body repair;**
- 9. Wholesale distribution and warehousing;**
- 10. Telecommunication facilities;**
- 11. Cannabis dispensary subject to Chapter 4.26;**
- 12. Private and Commercial storage units used exclusively for storage and not for performance of any other services;**

Section 2.09.02 Permitted Accessory Uses.

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

- 1. Caretaker and watchman quarters Signs conforming to subject to Chapter 4.04;**
- 2. Buildings and structures customarily incidental to permitted uses, special permitted uses and conditional uses.**
- 3. Intermodal Shipping/Storage Containers;**

Section 2.09.03 Special Permitted Uses:

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

1. Caretaker and watchman quarters subject to Chapter 4.21;

Section 2.09.034 Conditional Uses.

The following uses may be permitted as a conditional use in the “I” Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. ~~All conditional uses permitted in the “HC” Highway Commercial District; **Adult Uses**~~
2. ~~Storage plants, lumber yards, distributing stations and warehouses;~~
3. ~~Light assembly work, machine shops doing assembling or shaping and light cutting and sampling.~~
4. ~~Woodworking shops or plants.~~
5. ~~Grain elevators;~~
6. ~~Automotive body repair;~~
7. ~~Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment;~~
8. ~~Slaughterhouse;~~
9. ~~Crematory;~~
10. ~~Explosive manufacture or storage;~~
11. ~~Fertilizer manufacture;~~
12. ~~Incineration or reduction of garbage, dead animals, fat, or refuse;~~
13. ~~Soap manufacture;~~
14. ~~Tanning of leather, rawhide or skins;~~
15. ~~Livestock sales or auction barns and yards;~~
16. ~~Any industrial use, other than those permitted by conditional use, which can meet the performance standards listed in section 2.09.06.~~

Section 2.09.045 Prohibited Uses.

All uses and structures **not listed as a** specifically permitted **use, special permitted use** or **not permitted** by conditional use shall be prohibited in the “I” District.

Section 2.09.056 Area Regulations.

1. **Minimum Lot Requirements:** ~~The minimum lot area for permitted uses shall be forty three thousand five hundred and sixty (43,560) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. The minimum lot area and width for uses permitted by conditional use shall be as determined by the Board of Adjustment.~~ **Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.09.05.1 and 2.09.05.2. and Figure 2.09.05.1.**
2. **Minimum Yard Requirements:** ~~Permitted uses shall have a minimum front yard of fifty (50) feet; minimum side yards of twenty (20) feet, except when bordering a residential district, then a side yard should be~~

thirty (30) feet and such side yards shall be landscaped or fenced in a suitable manner to buffer residential uses; and a minimum rear yard depth of thirty five (35) feet shall be required which abut a residential district and such rear yard shall be landscaped or fenced in a manner to buffer residential uses. All other rear yards shall be twenty five (25) feet. The minimum yard requirements for uses permitted by conditional use shall be as determined by the Board of Adjustment.

All outdoor storage within 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 stock pile 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" Industrial Zone that is within five hundred (500) feet of a residential zone.

3. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed seventy five percent (75%) of the total lot area. The maximum lot coverage for uses permitted by conditional use shall be as determined by the Board of Adjustment.
 4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed forty five (45) feet.
3. **Screening -** Where any use in the "I" Light 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.

Table 2.09.05.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	43,560 square feet	150'	45'	50%
Conditional Uses	To be determined by the Board of Adjustment			

Table 2.09.05.2



	Minimum Front Yard*	Minimum Rear Yard*#		Minimum Side Yard*#	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts
Symbol					
Permitted Uses	50'	25'	35'	20'	30'
Conditional Uses	To be determined by the Board of Adjustment				

* To be measured from the most outward point of the building.

Rear and side yards shall be landscaped or fenced in a suitable manner to buffer residential uses

Figure 2.09.05.1



Symbol	Structure
	Business
	Parking/ Driveway

Section 2.09.06 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 City Council.
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 2.10 FP FLOOD PLAIN DISTRICT

Section 2.10.01 Intent

The intent of the FP Flood Plain District is to protect from encroachment watershed areas subject to flooding, backwater spreading, and floodwater or overflow of streams or rivers.

Section 2.10.02 Permitted Use:

The following open space uses shall be permitted within the Flood Plain District provided they do not require structures, landfill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting;
2. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips;
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

Section 2.10.03 Uses Permitted on Review

No permit shall be issued for the construction of any building or structure including railroads, street, buildings, and utility lines or for any use within the Flood Plain District until plans for construction have been submitted to the Planning and Zoning Commission and approval is given in writing after the other provisions of this Ordinance have been fulfilled. In its review of plans submitted, the Planning and Zoning Commission shall be guided by the following standards, keeping in mind that the purpose of this district is to prevent encroachment into the floodway which will unduly increase flood levels and endanger life and property.

1. Any structures or filling of land permitted shall be of a type not appreciably damaged by floodwaters;
2. Any use permitted shall be in harmony with and not detrimental to the uses permitted in the adjoining district;
3. Any permitted structures or the filling of land shall be designed, constructed, and placed on the lot so as to offer the minimum obstruction to and effect upon the flow of water;
4. Any structure, equipment or material permitted shall be firmly anchored to prevent it from floating away and thus damaging other structures and threatening to restrict bridge openings and other restricted sections of the stream;
5. The storage or processing of materials that are in time of flood buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited.
6. Any structure shall be constructed on fill so that the first floor is one (1) foot above the regulatory flood-

protection elevation. The fill, which shall include the access to the structure from a public street, shall have an elevation no less than one foot below the regulatory flood protection elevation for the particular area and the fill shall extend no less than ten (10) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make compliance with this provision impractical or in other special circumstances, the Planning and Zoning Commission may authorize other techniques for elevation.

7.—Any structure may, in special circumstances, be protected by other flood proofing measures to a point at or above the regulatory flood protection elevation.

8.—Where in the opinion of the Planning and Zoning Commission topographic data, engineering and other studies are needed to determine the effects of flooding on a proposed structure or fill and/or the effect of the structure or fill on the flow of water, the Planning and Zoning Commission may require the applicant to submit such data.

9.—The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind by the Planning and Zoning Commission or by any officer or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.

10.—There shall be no basements constructed in the flood plain.

Section 2.10.04 Area, Height, and Parking Regulations

Any structure or use permitted shall comply with the minimum area, height, and parking regulations established for such structure and use in the most restrictive of the adjacent zoning districts and with other parts of the Ordinance which regulate the use of its normal accessory uses.

CHAPTER 2.99 FLOODPLAIN OVERLAY DISTRICT.

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 City Council of the City of Lake Preston, South Dakota, ordains as follows:

The City of Lake Preston 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 City of Lake Preston'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 City of Lake Preston 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 City of Lake Preston.

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 Lake Preston.

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 Kingsbury County, and Incorporated Areas" dated May 22, 2024 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, see Section 3.02.01, 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.
- b. 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 (3.11.01 (3)).
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.

**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. The Administrative Official except in conformity with the provisions of this Ordinance shall issue no permit, unless he **/she** received a written order from the Board of Adjustment in the form of an administrative review, **under** conditional use, or variance as provided by this Ordinance.

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 repair or substantially similar replacement of any of the following:**
 - a. **Shingling;**
 - b. **Siding (if nonstructural);**
 - c. **Window replacement;**
 - d. **Painting of exterior;**
 - e. **Door, if the dimensions remain the same;**
 - f. **Downspout;**
 - g. **Fascia,**
 - h. **Fencing panel or post;**
 - i. **Gutter;**
 - j. **Soffit; and**
 - k. **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 the 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. Such plans and data accompanying the permit shall be final and conclusive, and a deviation therefrom shall require a new permit.

~~The Administrative Official shall return one copy of the permit application to the applicant, after such copy has been marked either approved or disapproved and attested to by his signature on such copy. The Administrative Official shall retain the original of the permit application and site plan, similarly marked. The Administrative Official shall then, if the application is approved, issue a signed building permit; or if the application is disapproved he shall notify the party making the application as to rejection of said plans.~~

Section 3.01.03 Fee Schedule.

The City Council shall by resolution establish a schedule of fees, charges, expense 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 City Council.

The current fee schedule shall be available from the Administrative Official. All fees shall be the property of the City and shall be paid over to the City Finance Officer for credit to the General Fund of the City, 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 Ordinance.

Section 3.01.05 Expiration of Building/Use Permit.

- 1. Unless otherwise specified by the Board of Adjustment**, if the work desired in any **building/use** permit has not begun within ~~ninety (90) days~~ **six (6) months** from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected. **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.**
- 2. Unless otherwise specified by the Board of Adjustment**, If the work described in any **building/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.**

Section 3.01.06 Building/Use Permits Process.

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 **use** permit issued by the Administrative Official. Building **Use** 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.

1. The landowner, **or applicant on behalf of the landowner**, requesting the Building/Use Permit shall complete an application for a building/**use** permit, accompanied with the appropriate fee, available from the Administration Official. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - a. Applications for ~~a site shall accompany building permits plan~~ **Building/Use Permits shall be accompanied by a site plan which may be required to be** drawn to scale with the following information indicated in order to determine compliance with this Ordinance.
 - i. A site plan, ~~drawn to scale~~, showing The exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
 - 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. The Administrative Official may waive this requirement in the event lot markers (pins) have been located.
 - iv. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
 - v. ~~The Administrative Official in cases of permits to alter the interior of any existing structure may waive any of the above requirements.~~
2. 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. Then Administrative Official for city records shall retain one copy of the application, similarly marked.
3. 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.
4. Building permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.

5. With application for a building permit, the site must be clearly staked out and/or the Administrative Official will examine plans that clearly indicate the structure to be erected or remodeled, or alterations of the existing structure.

~~6. The Administrative Official will again examine the site after the completion of the foundation and rafters of the structure and will grant permission to proceed if complied with application.~~

CHAPTER 3.02 ADMINISTRATIVE OFFICIAL

Section 3.02.01 Establishment and Purpose.

The position of Administrative Official is hereby established for the City of Lake Preston. The Administrative Official may be employed by the City or other entity in another position. The City Council shall appoint the Administrative Official. Further, he/she may be provided with the assistance of such other persons as the City Council may direct. The Administration Official shall administer and enforce this Ordinance. It is the intent of this Ordinance that 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/use permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Provide public information relative to all matters arising out of this Ordinance.
8. Forward to the Planning Commission all applications for amendments to this Ordinance.

9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this Ordinance.
10. Initiate, direct, and review, from time to time, a study of the provisions of this Ordinance, and to make such reports available to the Planning Commission. The Administrative Official shall receive applications for Building Permits, **Special Permitted Use Permits**, Conditional Uses, Variances, and Zoning Amendments.
 - a. For building **/use permits and Special Permitted Use** Permits, the Administrative Official shall approve the application only in accordance with the provisions of this Ordinance.
 - b. For Conditional Uses and Variances, the Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or approve said application.
 - c. For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning Commission and City Council.

3.02.03 Powers.

If the Administrative official shall find that any of the provisions of this Ordinance are being violated, he/she 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.

Section 3.02.04 Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this regulation, or whenever the Administrative Official or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises a regulation violation, the Administrative Official or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Administrative Official by this ordinance, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Administrative Official or an authorized representative shall have recourse to every remedy provided by law to secure entry.

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

Section 3.02.05 Stop Order.

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

Section 3.02.06 Occupancy Violation.

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

CHAPTER 3.03 BOARD OF ADJUSTMENT

3.03.01 Establishment.

A Board of Adjustment is hereby established, which shall consist of the Mayor and members of the City Council, as provided for in the provisions of Chapter 11-4, South Dakota Codified Laws and Amendments.

The City Council may appoint two (2) alternates for the Board of Adjustment. If a City Council Member or Mayor 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 chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, 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 meetings and 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 the unapproved, unofficial minutes will be prepared and available for public inspection ten (10) days following each meeting. Upon adoption by the Board of Adjustment,** all of which shall be filed in the office of the City Finance Officer of the City of Lake Preston, South Dakota and shall be a public record.

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 there is error in any order, requirement, decision, or determination made by the Administration Official in the enforcement **of any provision** of this Ordinance, **and for the interpretation of the Official Zoning Map.**

~~b. To hear and decide appeals to decisions made by the Administrative Official regarding Building/Use Permits.~~

i.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.

ii.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 concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer of the governing body of the city affected by any decision of the Administrative Official **to grant or deny the permit. No other appeal such as any relating to a ministerial act or other preliminary act to bring an application or matter before the board for hearing and a final decision on the merits is authorized by this section.** Such appeals shall be taken within a reasonable time, **as provided by the rules of such board, but** not to exceed ~~sixty (60) days~~ **twenty-one (21) days** of ~~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 shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. **All appeals relating to a particular action or property shall be consolidated and heard on an expedited basis.**

~~The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Administrative Official or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Official Zoning Map.~~ **The Board of Adjustment shall fix a reasonable time for the hearing on the appeal and give ten (10) days 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, 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 City Finance Officer.

Section 3.03.057 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 CONDITIONAL USES VARIANCES AND ZONING AMENDMENTS AND SPECIAL PERMITTED USES

Section 3.04.01 Conditional Uses.

Conditional Uses are allowed for certain uses in some zoning districts. Uses not listed within the individual zoning districts 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 follow the following procedure in considering the recommendation of the Administrative Official **Planning Commission for a Conditional Use Permit**. A Conditional Use Permit shall not be granted by the Board of Adjustment unless and until **is intended by this Ordinance to be granted by the Board of Adjustment provided:**
 - a. **The landowner requesting the Conditional Use Permit shall complete an application for a Conditional Use Permit, available from the Administrative Official. Any required attachments and fees as in Section 3.01.03 shall further accompany the application. The written application for a Conditional Use shall indicate the section of this Ordinance under which the Conditional Use is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, update or corrected information shall accompany the application for a Conditional Use Permit. A written application for a Conditional Use Permit is submitted, indicating the section of this Ordinance under which the Conditional Use Permit is sought and stating the grounds on which it is requested.**
 - b. **The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval of or disapproval of the application. Property owners adjacent to the proposed site shall be notified of the Conditional Use Permit request by certified mail, at the cost of the applicant at least one (1) week before the public hearing**
 - c. **The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alley) by mail at the expense of the applicant, at least one (1) week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit. Notice of hearing shall be published once, not less than ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.**
 - d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
 - e. **The Planning Commission may make a non-binding recommendation to the Board of Adjustment whether questions as are involved in determining whether a specific conditional use should be granted have been answered; and regarding such conditions and safeguards as are appropriate under this Ordinance by majority vote of the full membership of the Planning Commission.**
 - e.f. The Board of Adjustment shall **rule 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 Permit will not adversely affect the public interest; and

f.g. Before any Conditional Use shall be issued, the Board of Adjustment shall make a **The granting of any Conditional Use Permit, 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 arrangement has been made concerning the following, where applicable:

- i. Utilities, refuse, and service areas, with reference to locations, availability, and compatibility;
- ii. Screening and buffering with reference to type, dimensions, and character;
- iii. Required yards and other open space; and
- iv. General compatibility with adjacent properties and other property in the district.
- v. Entrance and exit to property and proposed and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- vi. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties.
- vii. Off-street parking and loading areas where required, with particular attention on effects of the conditional use on adjoining properties and properties generally within the district.

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 to 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.**

2. **In order to preserve the intent of this Ordinance and to protect the public interest, In granting any Conditional Use Permit the Board of Adjustment may attach conditions to a Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as the original applicant complies with any terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment, are complied with. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation and punishable under the terms of this Ordinance.**
3. **Approval of any application for a Conditional Use Permit shall be by a two-thirds (2/3) majority (5 votes) of the present and voting Board of Adjustment members. 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 permit.**
4. **The Board of Adjustment may, after notice and hearing, revoke a conditional use permit in the event of a violation of any of the conditions upon which such permit was issued. In addition, the conditional use permit may not be transferred during any violation.**
5. **Unless otherwise specified by the Board of Adjustment, a Conditional Use Permit shall expire if actual construction has not commenced within two (2) years of the date 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 3.04.02 Variances.

Variances are designed to allow some flexibility in the Ordinance, in cases where the exceptional shape of a parcel of land, in cases where use of a property is overwhelmingly effected by exceptional topographic conditions, or any other extraordinary situation or condition of such a parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of this Ordinance present an undue hardship on such property owner's use of such parcel land. A variance shall include a description of the specific regulatory item or items in this Ordinance which are found to produce, said undue hardship. Variances shall only be granted when the Board of Adjustments finds that such relief from this Ordinance will be neither detrimental to the public good nor in conflict with the intent of this Ordinance.

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. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:
 - a. An written application for Variance, available from the Administrative Official, shall be completed by the landowner requesting the variance and shall be accompanied by any required attachments and fees as in Section 3.01.03. The written application for a variance shall indicate the section of this Ordinance under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a variance. **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.**
 - b. The Administrative Official shall review the application, and shall prepare a summary of the application and recommended reasons for either approval or disapproval of the application. **Property owners adjacent to the proposed site shall be notified of the variance request by certified mail, at the expense of the applicant at least one (1) week before the public hearing**

- c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alleys) by mail at the expense of the applicant, at least one (1) week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, no less than (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed variance. **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. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- e. **The Planning Commission may make a non-binding recommendation to the Board of Adjustment whether questions as are involved in determining whether a specific conditional use should be granted have been answered; and regarding such conditions and safeguards as are appropriate under this Ordinance by majority vote of the full membership of the Planning Commission.**
- e.f. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustments unless and until: **The Board of Adjustment shall make a finding that 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.**
- i. A written application for a variance is submitted demonstrating: **(Reserved)**
- ii. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;
- iii. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
- iv. That the special conditions and circumstance do not result from the actions of the applicant;
- v. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
- vi. That granting the variance request will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- vii. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- f.g. The Board of Adjustment shall make findings that the requirements of Section 3.04.02.1.e.f above have been met by the applicant for a variance;

g.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

h.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.

i.i. Approval of any variance shall be by a two-thirds (2/3) majority (5 votes) of all members of the Board of Adjustment.

k. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations 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 Ordinance and punishable under Chapter 1.02, Section 1.02.02 of this **Code Ordinance**.

l. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

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

3. Unless otherwise specified by the Board of Adjustment, a Variance shall expire if actual construction has not commenced within two (2) years of the date the Variance becomes effective, or within 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 Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official: (Reserved)~~

~~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.~~

~~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 present and voting members 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 3.04.04 Appeals: (Reserved)

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may seek review by 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 3.04.05 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 City Planning Commission, as provided herein, the City Council 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 by the City Planning Commission, City Council, or by application of one or more of the owners of property within the area requested to be changed. The City Council may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance in the following manners:
 - a. The City Council 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 City Council 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 City Council approval of an Ordinance describing said changes. The City Council 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 Amendment shall be followed:

1.a. The landowner or other person(s) requesting the Amendment shall complete an application for Amendment, available from the Administrative Official. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:

A.i. Any required attachments and fees, including Registered or Certified Mail costs in Section 3.01.03; and

B.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.

C.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.

D.iv. The Administrative Official shall set the date, time, and place for a joint public hearing to be held by the Planning Commission and City Council. 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 Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.

E.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.

F.vi. The Planning Commission shall either recommend or not recommend approval of the amendment to the city council.

G.vii. The City Council shall either approve or not approve the ordinance describing the proposed changes to this Ordinance, in accordance with standard procedures for reading, approval, publication, and effective date.

H.viii. When the City Council 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 of the City Council.

i.a) Protest Standard: The protest shall be signed by at least forty (40) percent 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 3.04.06. 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 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 make written findings certifying that the application is not in conformance with this Section and the specific standards governing the special permitted use and deny the application. The applicant may, as appropriate:
 - i. Apply for a variance from lot area, size of structure(s) or size of yards and open spaces.
 - 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.
2. 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.

3. 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. 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, shall again be considered by the Planning Commission, Board of Adjustment or City Council before the expiration of one (1) year from the date of the final action of the Planning Commission, Board of Adjustment or City Council.

**ARTICLE IV
SUPPLEMENTAL REGULATIONS**

CHAPTER 4.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines **fifty** (50) feet from the point of intersection.

CHAPTER 4.02 FENCES

Section 4.02.01 Construction Limitations

1. **Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard, provided that no solid fence, wall or hedge extending past the building setback into the front yard and side yard setback shall not exceed three (3) feet in height above the ground level, and fences of a chain link material extending past the building setback into the front yard shall not exceed four (4) feet in height above the ground level. However, if the fence, wall or hedge running parallel to the street is further than forty (40) feet from the street line, it may be seven (7) feet high. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Chapter 4.01.**
2. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the city limits of this city any fences of any character or material **first securing permission from the Administrative Official without obtaining a building permit. Further, no such fence of any kind shall be built closer than one foot to the inside sidewalk line or street right-of-way, and no electric fence or fence with barbed wire may be constructed in any residential district within the city limits. 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.**
3. **Fences that are adjacent to alleys shall be set back ten (10) feet from the street/boulevard right-of-way. Prior to the issuance of a permit for a fence, abutting property owners shall be notified.**
4. **Fences are to be constructed a minimum of two (2) feet off of the property line, if lot markers (pins) have not been located or the property has not been properly surveyed. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.**
5. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.
6. **No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the City of Lake Preston 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 the fence/wall/hedge is shared between property owners and agreement providing for the maintenance of said fence/wall/hedge is recorded at the Register of Deeds.**

7. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The City 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 barbed wire or above ground electric fence shall be used in the construction of any fences within the “R1” Single-Family Residential District, “R2” General Family Residential District, “C-1” Central Commercial District, “HC” Highway Commercial District or on the property lines separating commercial or industrial zoned property with residentially zoned property. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six (6) feet from the ground.

8. 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'

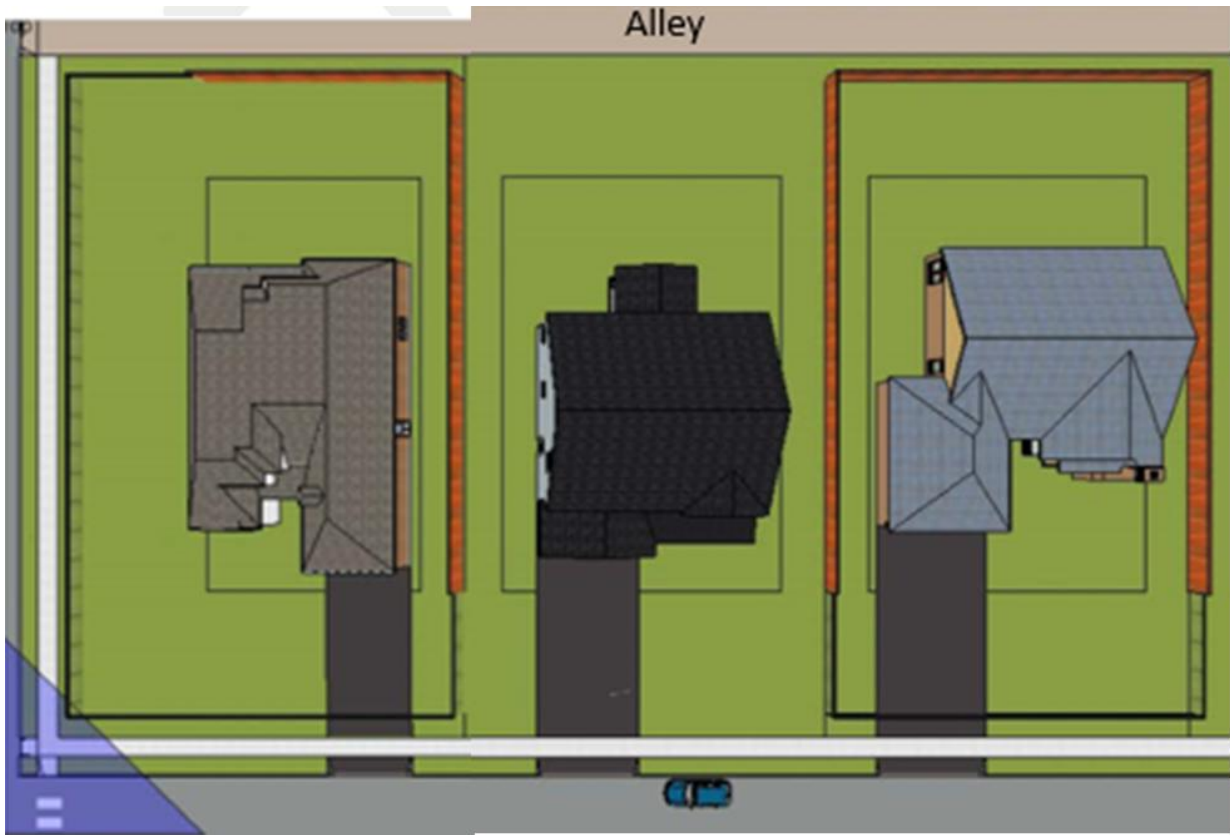


Corner Lot: 4-foot-tall fence which is less than 30% solid [(1 foot from sidewalk line (ROW))]; 7-foot-tall fence which is more than 30% solid [1 foot from rear and side yard property lines and no closer than required front yard setback of underlying district.]



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

Figure 4.02.03



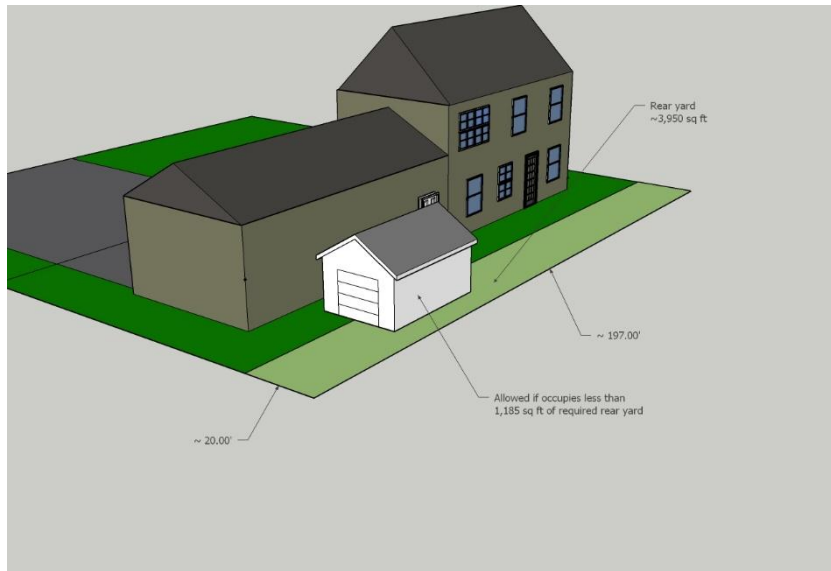
Corner and interior Lot: 4-foot-tall fence which is less than 30% solid in front yard [(1 foot from sidewalk line (ROW)); 7-foot-tall fence which is more than 30% solid not to be located closer than required front yard setback of underlying district and one (1) foot from rear and side yard property lines.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

CHAPTER 4.03 ACCESSORY BUILDINGS

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.
3. No accessory building shall be erected in any 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. Accessory buildings, not part of the main building, may be located in a rear yard, but may not occupy more than thirty percent (30%) of a rear yard, and shall not be used for dwelling purposes. (See Figure 4.03.5)

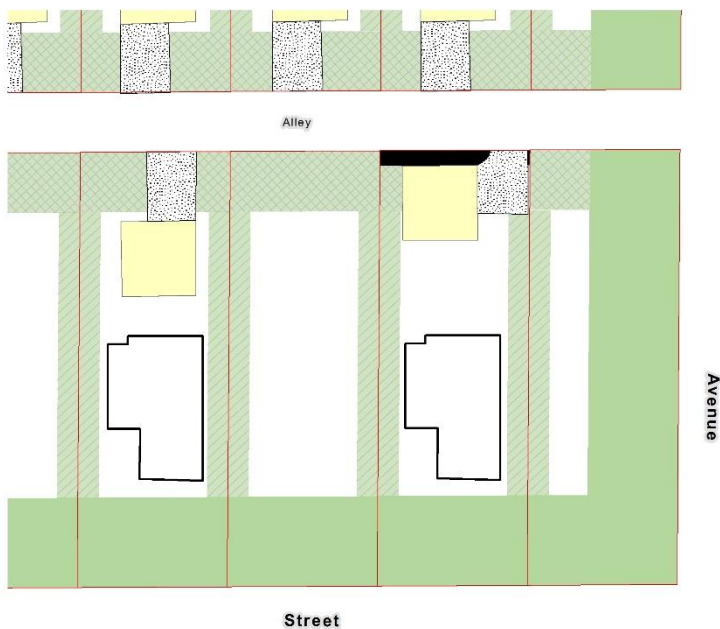
Figure 4.03.05



6. 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.

7. A garage which is entered directly from an alley shall not be located closer than twenty (20) feet to the alley line. A garage which is entered parallel to the alley way may be located five (5) feet from the alley line. (See Figure 4.03.6)

Figure 4.03.6



Symbol	Structure	
	House	
	Garage	
	Driveway	
Symbol	Required Yard	Setback*
	Front Yard	25'
	Rear Yard	20'
	Side Yard	7'
	Parallel Accessory Building	5'

5.8 Residential Districts.

Accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of the following table hereby adopted by reference and declared to be part of this Ordinance.

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

6.9 Commercial and Industrial Districts.

In any commercial district, any accessory use customarily incident to the principal permitted use or special exception use shall be permitted, except those uses specifically prohibited in the district. **No accessory structure shall be located between the primary structure and the street, except signs, gas/pumps islands unless otherwise determined necessary for the normal operation of the primary use in the opinion of the Board of Adjustment.**

Intermodal Shipping/Storage Containers are considered accessory buildings and require a permit.

10. Agricultural District.

In the Agricultural district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

Intermodal Shipping/Storage Containers are considered accessory buildings and require a permit.

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>Siding and roofing material of a type customarily used on site-constructed residence is recommended. Galvanized steel or steel panel may be used only after approval of the Board of Adjustment. Galvanized steel or steel panel is not to include ribbed steel commonly found in the construction of quonsets.</p> <p>a. Have siding material of a type customarily used on site-constructed residence or Steel Siding (Board and Batten). See C. Exception below.</p> <p>b. Have roofing material of a type customarily used on site-constructed residence. This does not include corrugated galvanized steel.</p> <p>c. Exception: Steel Siding (Conventional Non-Corrugated) Siding requirements for principal uses may receive a special permitted use permit if 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 location has been received.</p>	<p>1. Private garages.</p> <p>a. Attached garages shall be limited to maximum dimensions of thirty (30) feet by forty-eight (48) feet and a total area less than or equal to the gross floor area of the house and conform to the design of the house. Corrugated galvanized steel siding is prohibited. Unless a special permitted use permit is granted, Steel Siding (Conventional Non-Corrugated) is prohibited. See d. Exceptions, below.</p> <p>b. Unattached Detached garages shall be limited to maximum sidewalls of twelve (12) fourteen (14) feet; a total maximum dimensions of thirty (30) feet by forty-eight (48) feet; and a total area less than or equal to the gross floor area of the house and a maximum of 4/12 roof pitch or to conform to the design of the house. See f. Exceptions, below.</p> <p>c. Unattached Detached Garages shall have siding and roofing materials of a type customarily used on site-constructed residences, including Steel Siding (Board and Batten), and be comparable to the existing dwelling with the color coordinated to the existing dwelling. See e. Exceptions, below.</p> <p>d. Exceptions: Attached garages may receive a special permitted use permit to use (Conventional Non-Corrugated) steel siding and/or 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. Corrugated galvanized steel siding is prohibited.</p> <p>e. Exceptions: Detached garages may receive a special permitted use permit to (Conventional Non-Corrugated) steel siding and/or 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 attached 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 not over twelve (12) feet in height and not exceeding two hundred forty (240) 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 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>Churches, Convents and Monasteries Religious Institutions</p>	<p>1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use. 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 special exceptions conditional uses</p>	<p>1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use. 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 other items Prohibited and non-conforming uses</p>	<p>1. No accessory uses permitted.</p>

CHAPTER 4.04 SIGNS AND OUTDOOR ADVERTISING.

Section 4.04.01 On – and Off –Site 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

Section 4.04.02 General Requirements

Signs shall be permitted in all zoning districts, subject to the following provisions:

- a.1.** Wall signs may be located anywhere on the wall of a building.
- b.2.** **Freestanding** Signs shall not project over public property.
- c.3.** **Freestanding** Signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. **See Chapter 4.01**
- d.** ~~Each sign in the incorporated limits of Lake Preston shall at least meet the standards established by the South Dakota Department of Transportation.~~
- e.4.** Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefor.
- 2.5.** 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 **National Building codes** relating to outdoor advertising.

3. On-premise Signs: Each sign erected as an on-premise sign in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:

a. Unless otherwise specified herein, each sign erected as an on-site sign in those districts where permitted shall have a maximum surface area of eighty (80) square feet and shall observe all yard and height requirements of the district in which it is located. Each sign shall meet clear view triangle standards identified in Chapter 4.01. The maximum cumulative amount of all on-site signage allowed shall not exceed eighty (80) square feet.

b. No on-premise sign may be converted to an off-premise sign.

2. Off-premise Signs: Off-premise signs erected in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:

a. Each sign shall have a maximum surface area of three hundred (300) square feet.

b. The sign structure or sign shall have a maximum height of thirty (30) feet. Height of sign is the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground in a straight line directly below, measured from a point equidistant from the sides or edges of the sign.

c. Stacked signs (two or more signs stacked vertically on a single sign structure) are prohibited.

d. Each sign shall not be closer than three hundred (300) feet from any street intersection and five hundred (500) feet from another permitted Off-premise sign on the same side of the street or road.

e. Each sign shall not be closer than ten (10) feet from any street right-of-way.

f. Each sign shall not be closer than two hundred fifty (250) feet from adjoining property lines.

Section 4.04.03 Signs in the Residential Zoning Districts.

1. **Freestanding signs and wall signs are prohibited in Residential Zoning Districts. Exception: Freestanding and wall signs associated with churches, schools, public buildings, hospitals, nursing homes, day care centers, commercial storage buildings and manufactured home parks.**

2. **Temporary signs for Permitted and Conditional Uses in Residential Zoning Districts shall comply with the requirements of Table 4.04.03.3.**

3. **Freestanding and wall signs erected accessory to any permitted use or conditional use in 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 4.04.02.4, 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	
	Adjacent to Municipal Right-of-Way	Adjacent to State or Federal Right-of-Way	Adjacent to Municipal Right-of-Way	Adjacent to State or Federal Right-of-Way
Freestanding Wall	50 Square Feet		1	
Temporary	32 Square Feet		1	

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.

- 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.
- Notwithstanding the provisions of Section 4.04.02.4, 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	
		Adjacent to all Streets	Adjacent to Municipal Right-of-way	Adjacent to City, Township, County, State, or Federal Highway Right-of-Way
Freestanding	100 Feet	<ul style="list-style-type: none"> 2 sq. ft. per lineal foot of frontage not to exceed 120 square feet per sign on a single frontage lot; 2 sq. ft. per lineal foot of frontage not to exceed 75 square feet per sign on a multiple frontage lot (See (A) below) 	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 (C)	n/a	
Temporary	Applicable Side or Rear Setback for Primary Structures	32 square feet	1	

(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.

(C) Not to include printing, lettering or drawing in doors or windows.

Section 4.04.05 Portable Signs.

Temporary use of portable or movable signs shall be allowed in commercial and industrial districts in excess of and in addition to the sign limitations of this Section. The following provisions shall apply:

- 1. Portable signs shall be permitted only four times per twelve-month period for a maximum of fourteen (14) consecutive days per period;**
- 2. The maximum permitted size of a portable sign is six (6) feet in height and ten (10) feet in length.**
- 3. A portable sign shall not be located closer than twenty (20) feet to any intersection and shall not be located closer than three (3) feet from any sidewalk;**
- 4. Only one portable sign shall be allowed per 150 feet of lot frontage;**

Section 4.04.06 Electronic Message Signs.

- 1. Electronic message sign displays shall be limited to displays, which are gradual movements, including, but not limited to, dissolve, fade, scrolling, or traveling. However, sudden movement is prohibited, including, but not limited to, blinking and flashing.**
- 2. Any permitted signs may be, or may include as an individual component of the total sign area, electronic message signs.**
- 3. Electronic messages or graphic displays may be changed at periodic intervals by gradual entry and exit display modes provided that messages and animation shall be displayed at periodic intervals by various modes, such as fade, dissolve, scrolling, or traveling.**

CHAPTER 4.05 PARKING

Section 4.05.01 Parking, Storage, or Use of Major Recreation Equipment.

- 1. No off-street parking of motor vehicles, major recreational equipment, watercraft or trailers should be permitted in the required front yard of any residence except as follows: (see Figure 4.05.1):**
 - 2.a.** Upon a driveway providing direct access to the garage or rear yard
 - 3.b.** Upon any other driveway provided that it is no wider than twenty-two (22) feet;
 - 4.c.** Upon the yard area between the driveway and the nearest side lot line.
 - d. Equipment may be parked or stored for a period exceeding forty-eight (48) hours during loading or unloading.**

Figure 4.05.1

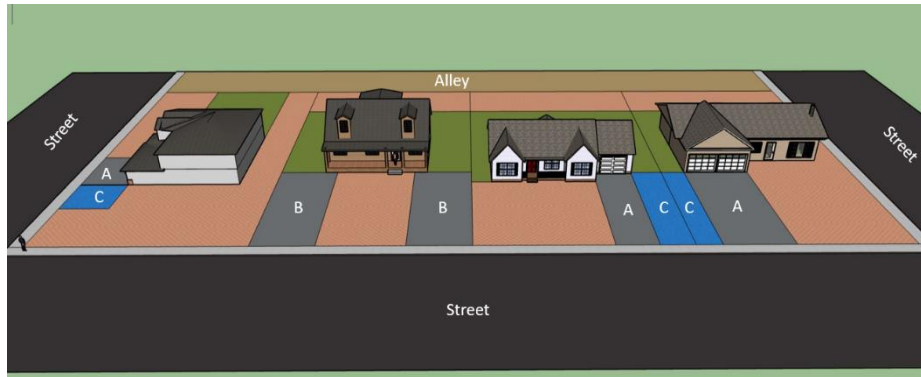


Figure 4.05.1 Notes

Letter B above shows two options for the placement of a driveway, only one option may be utilized.

Letter C references 4.05.01.1.c (above)

Red area above denotes no off-street parking locations.

Green area above denotes acceptable side and non-rear yard parking areas.

- 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 without current license plates shall not be parked or stored ~~on any commercially, industrially or residentially zoned property~~ **in any zoning district** other than in completely enclosed buildings. **Vehicles which are not operable and without a current license in any commercial or industrial zoning district may not be kept in any uncovered area other than designated junk or salvage yard.**

Section 4.05.03 Off-Street Parking Requirements:

Except in the C1 Central Commercial District, 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 below **(Table 4.05.03.1)**. 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 Planning ~~and Zoning~~ Commission 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 4.05.03.1
Schedule of Minimum Off-Street Parking and Loading Requirements**

<u>USE OR STRUCTURE</u>	<u>MINIMUM OFF-STREET PARKING REQUIREMENTS</u>	MINIMUM OFF-STREET LOADING REQUIREMENTS
Bed & Breakfast	One (1) space for each guest room	<u>None</u>
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
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 (1) space per establishment
Hospitals	One (1) space for each three (3) beds	Three (3) spaces per establishment
Hotels/Motels	One (1) space for each guest room	One (1) space per establishment
Industrial Uses	One (1) space for each two (2) employees on the maximum working shift	Two (2) spaces per establishment
Libraries	One (1) space for each five hundred- (500) square feet of floor area	One (1) space per establishment
Manufactured Home Parks	Two (2) spaces for each manufactured home	None
Medical or dental clinics	One (1) space for each examining or operating room plus one (1) space for each doctor and employee	None
Mortuaries & funeral homes	Five (5) spaces for each reposing room	Two (2) spaces per establishment
Multiple family dwellings Nursing, Convalescent & Rest Homes	Two (2) spaces for each dwelling unit exclusive or required yards	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, and	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
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 YARDS

For the purposes of this ordinance the term “yard” shall refer to any required yard or setback area specified in the applicable zoning district.

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 4.07.01 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 4.07.02 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**
2. ~~On lots in any residentially zoned block fronting on one side of the street between two streets where one or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line. Provided, however, that on lots in any block fronting one side of a street between two intersecting streets in the above districts, the set-back line may be increased, providing that the owners of three-fourths (3/4) of the front footing on said side of the street in said block shall petition the Planning Commission to establish the set-back line at a certain distance named in the petition. If the Planning Commission shall approve of establishing the set-back line as petitioned, it may be so established.~~
 - a. **In no instance shall the yard on the side street of a corner lot in a residential zoning district be reduced to less than twelve and one-half (12 ½) feet**
 - b. **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**

3. ~~On through lots and reversed frontage lots, a front yard must be provided on both streets.~~ **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.**

Section 4.07.03 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.
3. ~~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.~~
4. ~~An accessory building may be located in a rear yard but not occupy more than 30 percent of a rear yard.~~
5. ~~Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.~~

CHAPTER 4.08 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 4.09 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Chapter 2.03 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 4.10 MANUFACTURED HOME PROVISIONS.

Section 4.10.01 Modular Homes.

1. Modular homes shall meet the following regulations.
 - a. Modular homes shall meet or exceed Uniform 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 one thousand (1,000) square feet in ranch style and eight hundred fifty (850) square feet split and be placed on a permanent foundation.
 - 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 4/12-roof pitch.
 - f. **Modular homes shall** have siding material of a type customarily used on site-constructed residences.
 - g. **Modular homes shall** have roofing material of a type customarily used on site-constructed residences.

2. Type B Modular homes (Tiny Home) shall meet the following regulations.

- a. **Shall meet or exceed Uniform Building Codes.**
- b. **Shall have less than four hundred (400) square feet gross floor area (excluding lofts)**
- c. **Shall be placed on a permanent foundation.**
- d. **Shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.**
- e. **Shall have siding material of a type customarily used on site-constructed residences.**
- f. **Shall have roofing material of a type customarily used on site-constructed residences.**

Section 4.10.02 Type I and Type II Manufactured Homes.

1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two (2) types of homes are defined under these regulations.
 - a. Type I manufactured home shall **be a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code in addition to the following requirements:**
 - 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 frame-work 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. Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.~~
 - vii. Have a gabled roof with a pitch of at least 3/12 feet.
 - viii. Have siding material of a type customarily used on site-constructed residences.
 - ix. Have roofing material of a type customarily used on site-constructed residences.
 - x. The age of the manufactured house may not exceed ~~ten (10)~~ **twenty (20)** years from the date of manufacture.
 - b. Type II manufactured home shall **be a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code in addition to the following requirements:**
 - i. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit.
 - ii. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in 4.10.02.B.2.

- iii. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the ~~Defense Civil Preparedness Agency TR 75, issued June 1972, by the U.S. Department of Defense or by the NFPA 225 Model Manufactured Home Installation Standards.~~ **Federal Manufactured Housing Construction and Safety Standards Code.**
- 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. Have a gabled roof with a pitch of at least 3/12 feet.
- vii. The age of the manufactured house may not exceed ~~ten (10)~~ **twenty (20)** years from the date of manufacture.
- viii. Be placed onto a support system. In accordance with approved installation standards, as specified in Section 4.10.02.2.

2. Installation standards

- a. Permanent Perimeter Enclosure as required for Type I 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

- i. 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.
- ii. 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 or with the support systems regulations in the ~~ANTI/NFPA 501A 1977 installation standards~~ **Federal Manufactured Housing Construction and Safety Standards Code.**

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 year, the land thereafter must be used in conformity with all provisions of this Ordinance.

4. Replacement of Nonconforming Homes. See 2.02.03.6
5. Structural Alteration.

Due to its integral design, the Administrative Official after it is placed on the site must approve any structural alteration or modification of a manufactured home.

6. **Variance** Exception from Maximum Age Requirement

Type I and Type II manufactured homes may receive a **variance special permitted use** from the maximum age requirement (**Chapter 4.09**). 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 City of Lake Preston.
- 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 150 feet (excluding streets and alleys) of said proposed location.

CHAPTER 4.11 PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes in an approved manufactured home park, provided said manufactured homes **are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather related events. comply with Chapter 4.10.**

CHAPTER 4.12 UTILITY EASEMENTS.

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

CHAPTER 4.13 MOVED **IN BUILDINGS**

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the City 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 City of Lake Preston.
- 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 may also be required to file with the City Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, 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.~~

e. The applicant shall also file with the To Finance Officer a map of roadways upon which the building will be carried within City 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.

f. 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 City of Lake Preston.

g. No building shall be moved other than during the period from daylight to sundown.

h. If a building or structure is to be moved onto any lot within the City, 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.

i. The applicant may also be required to provide a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds.

e.j. 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 of all 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 150 feet (excluding streets and alleys) of said proposed location has been received.

~~a. That applicant shall file with the Administrative Official the route to be taken in so moving/removing the building and length of time which may be consumed in the work.~~

g.i. Nothing in the permit shall be construed as authorizing the holder thereof or his agents to break, injure or move any light or telephone poles or wires, or in any way injure shade trees or other property without the permission of the owner or owners thereof.

2. It shall be unlawful to move any house or other building off of any lot within the City 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.

1. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.

2. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.

3. The applicant shall also file with the City Finance Officer a map of roadways upon which the building will be carried within City 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.

4. 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 City of Lake Preston.

5. 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 City, 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.

6. 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 reseeded.

CHAPTER 4.14 SCREENING

Where any "C1", "HC", and "I" use 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 planting or fencing may be in conflict with Chapter 4.01 or Chapter 4.02.

CHAPTER 4.15 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 4.16 UNLICENSED VEHICLES

Vehicles not in use and without a current license may not be kept in any uncovered or unscreened area other than designated junk or salvage yard.

CHAPTER 4.17 CONNECTION TO SANITARY SEWER

All structures used for human habitation, commercial, or industrial use shall be connected to the City of Lake Preston sanitary sewer system.

No person shall build, construct, maintain or use or cause to be built, constructed, maintained any septic tank system upon any lot within the City. All existing septic tanks shall be considered Non-conforming Uses. All structures used for human habitation; commercial and industrial use must be connected to the city's sanitary sewer system. All structures within four hundred (400) feet of the city's sanitary sewer system shall be connected to the city's sanitary sewer system at the landowner cost in accordance with Lake Preston City Ordinances.

CHAPTER 4.18 FILLING, GRADING, LAGOONING AND DREDGING

1. Filling, grading, lagooning or dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation, or impairment of fish and aquatic life is prohibited.
2. A permit shall be required: For any filling or grading of any area which is within 300 feet horizontal distance of a natural water and which has surface drainage toward the water and in which there is:
 - A. Filling of more than 500 square feet of any wetland which is contiguous to the water.
 - B. Filling or grading on all slopes of 20 percent or more. (This does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.)
 - C. Where more than 10,000 square feet of the bank of a natural body of water is exposed by grading.
 - D. A permit shall be required before constructing, dredging, or commencing work on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet of the high water mark of a natural body of water or where the purpose is the ultimate connection with such body of water. This requirement does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.

CHAPTER 4.19 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 4.19.01 Setbacks.

- 1. None of the following uses may be established, operated or maintained within five hundred (500) feet of a residence, 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 4.19.01.2 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 4.19.02 Required License.

It shall be unlawful for any person to engage in the business of operating an adult use in the City of Lake Preston without first having obtained a license from the City Council.

Section 4.19.03 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 fifteen (15) days after receipt of an application for an adult use license, the City Council 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 City, including zoning ordinances.

- b. That the premises and each manager and employee comply with the provisions of Section 4.19.03.1 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 4.19.03 within fifteen (15) days after completion of such investigation, the City Council 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 4.19.04 within fifteen (15) days after completion of such investigation, the City Council shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the City with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

Section 4.19.04 Conditions & Regulations Governing Operation; Violation; Penalty.

1. The following regulations shall govern and control the business of operating an adult use in the City of Lake Preston:
 - 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 City Council 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 4.19.03.
 - 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 4.19.04.1, 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 City to fail to comply with the conditions and regulations set forth in subsections 4.19.03 and 4.19.04 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 4.19.05 Suspension or Revocation.

Nothing in the terms of this article shall preclude the right of the City Council to suspend or revoke the license of the licensee, as follows:

1. The City Council 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.

2. The City Council 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 City Council 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 4.20 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 City of Lake Preston has established minimum performance standards for home Occupations.

Section 4.20.01 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 4.21 CARETAKER/WATCHMAN'S QUARTERS

1. Caretaker/watchman's quarters on parcels in any commercial or industrially zoned property shall require a special permitted 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 4.22 BED AND BREAKFAST.

The regulations regarding Bed and Breakfast Establishments (hereafter referred to as B & B's) shall be as follows:

- 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 principal 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 principal 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 4.23 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. **Figures 4.23.5.a and 4.23.5.b (below) includes examples of dwellings which may meet the definition of "Shop-style dwellings" and the conditions of Chapter 4.23:**

Figure 4.23.5.a



Figure 4.23.5.b



11. **Figure 4.23.6.a and 4.23.6.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 4.23:**

Figure 4.23.6.a



Figure 4.23.6.b



CHAPTER 4.24. 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;**

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 4.25 DECAYING OR BURNED BUILDINGS

Section 4.25.01 Removal of Decaying or Burned Building.

1. Whenever in the opinion of the Administrative Official any building within the limits of this City shall have been damaged by fire, building collapse, decay or otherwise to the extent of fifty (50) percent of the assessed value thereof, it shall be the duty of the Inspector to report the same in writing to the City Council at some regular meeting describing the said building, its location and the name of the owner if known.
2. The Finance Officer shall then issue a notice served upon the owner, who, if within the State, or in case of absence from the state, upon his agent if there be one, requiring the said owner to appear before the City Council at a time and place specified in said notice to show cause why said building should not be torn down or removed.
3. In the case the owner cannot be found within the state and there is no agent present, then the notice shall be published in the official newspaper of the City, once each week for four successive weeks. Upon the completion of such publication and due proof thereof, filed with the Finance Officer, proof of such service shall be deemed valid and complete.

Section 4.25.02 Decaying or Burned Buildings; Hearing, Remedies.

1. The City Council shall accept evidence pertaining to the condition of such building, the extent to which the same has been damaged and the present value thereof. If in the judgment of the City Council such building has been damaged by fire, decay or otherwise to the extent of fifty (50) percent of its value, then an order shall be made and entered on the record, condemning such building to be removed with the time as therein specified under the direction of the Administrative Official and the Chief of Police. Any disregard of said order shall be deemed a violation of this ordinance, and the City may prosecute the offender. In addition, the City may remove the building and hold a lien against the property for all necessary expenses.

CHAPTER 4.26 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 City shall allow one (1) cannabis dispensary 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 one thousand (1,000) feet from a public park and recreation area existing before the date of the cannabis dispensary application;**
- c. 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.**
- d. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed.**

3. 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.**

- 4. 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.**

5. Hours of operation:

a. Cannabis dispensaries are allowed to be open daily between the hours of 7:00 a.m. and 7:00 p.m.

6. 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.

7. The Administrative Official is authorized to issue permits (building/use) for cannabis dispensaries subject to following:

a. Submission of a site plan containing the following:

Any information required for applicable building permit.

i. Ingress and egress plan

ii. Parking plan

iii. Lighting plan (including security lighting)

iv. Screening/security fencing plan,

v. Refuse plan;

vi. Hours of Operation;

vii. Any other information as lawfully may be required by the Administrative Official to determine compliance with this ordinance.

b. Documentation of ability to meet setback/separation requirements.

c. Documentation of State Licensure.

8. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

CHAPTER 4.27. HARBORING, RAISING OR BREEDING OF CHICKENS.

Section 4.27.01. Intent and Applicability.

It shall be unlawful in any Residential District to possess, own, house, harbor, care for, exercise control over, raise, confine, breed, or keep chickens unless in accordance with this ordinance.

Section 4.27.02 General Provisions

1. No person shall possess, own, house, harbor, care for, exercise control over, raise, confine, breed, keep, any male chickens (roosters) within any Residential District in the City of Lake Preston.
2. No person shall possess, own, house, harbor, care for, exercise control over, raise, confine, breed or knowingly keep more than eight (8) hens within any Residential District in the City of Lake Preston.
3. No person shall allow any chicken to run at large within the City of Lake Preston.
4. Chickens are required to be housed in a coup approved by the Board of Adjustment.
5. The portion of the yard in which the coup is located shall be enclosed with a minimum five (5) foot high privacy fence to be constructed in accordance with Chapter 4.02 "Fences".
6. The property housing, harboring, care for, raising, breeding or keeping of chickens is subject to warranted and unwarranted inspections.

Section 4.27.03 Setbacks/Location/Waiver

1. The chicken coup shall be setback a minimum of ten (10) feet from all adjacent property lines.
2. The chicken coup shall be setback a minimum of forty (40) feet from all buildings on adjacent property.
3. Chickens shall be confined farther from the street than the residence on the lot.
4. Applicant must obtain the written consent of all owners of property adjacent to the proposed location (excluding streets and alleys) where such chickens are possessed, owned, housed, harbored, cared for, exercised control over, raised, confined, or kept.

Section 4.27.04 Application

An application to possess, own, house, harbor, care for, exercise control over, raise, confine, breed, or keep chickens shall include:

1. The name, address, and telephone number of the owner and/or lessee of the parcel of land upon which application is made. If the Applicant is not the Owner of the parcel of land, the written consent of the Owner shall be evidenced in the application.
2. The legal description and address of the parcel of land upon which the chickens will be harbored, raised, or bred.
3. A description of the number of chickens proposed.
4. The proposed type of housing (coup);

5. The location of the proposed housing/coup.
6. Description of the procedural and operating safeguards to avoid public nuisance(s)
 - a. Manure management plan detailing the collection and disposal process for chicken manure.
 - i. Manure shall be disposed of in an organic manner.
 - ii. The accumulation of manure or animal or fowl waste for more than twenty-four (24) hours is prohibited unless it is in a securely tied, closed, biodegradable package placed in a leakproof, rigid container with a tightfitting lid.
 - iii. Manure shall not be allowed to be disposed with city garbage collection.
 - b. Detailed plans regarding the maintenance and cleaning of chicken coup/property.
 - c. Detailed plans addressing the prevention of breeding areas for flies and mosquitoes (specifically areas where manure accumulates and stagnant water).

Section 4.27.05 Issuance of Permit; Term; Renewal(s); Revocability

1. The Board of Adjustment shall issue conditional use permits to applicants meeting the conditions described in this Chapter and those requirements of all Special Permitted Use Permits described in Section 3.04.06.
2. Special Permitted Use Permits and annual renewal of special permitted use permits shall be issued for periods of one (1) year.
3. Applications for annual renewal(s) of said permit shall be submitted at least thirty (30) days prior to the expiration date; and shall observe the requirements and procedures described in this Chapter, unless specifically waived separately for each renewal period by formal action of the Board of Adjustment. Such specific waiver does not constitute a waiver for subsequent renewals, or for other applicants.
4. Failure to abide by the terms of this Chapter and/or issued special permitted use permit(s) shall result in a hearing to revoke said special permitted use permit.

**ARTICLE V
DEFINITIONS**

Chapter 5.01 GENERAL TERMS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows, except where the context would plainly indicate a different intent **are hereby defined. Words used:**

In the **present tense** shall include the future; In the **singular number** shall include the plural; In the **plural number** includes the singular.

The word **“lot”** includes the words “plot” or “parcel”;

The word **“shall”** is mandatory, **not discretionary**; the word **“may”** is permissive;

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: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Actual Construction: Construction materials are being placed and work is proceeding without undue delay.

Adjacent Property: Any lot, parcel, or property bordering a specified lot boundary, and those lots immediately across the street from the specified lot.
Figures Below:



Administrative Official. The individual(s) appointed by the City Council 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, 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 take off, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

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.

Alley: a public or private right-of-way which affords secondary means of access to abutting property.

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; 55 turkeys; 5 ducks/geese; 33 hens, cockerels, capons, or broilers.

Apartment: An apartment house is a detached dwelling designed for, or occupied by, three (3) or more family units. **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.**

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 Repair Shop. Any building or premise which provides services relating to the rebuilding of engines, spray paint operations, or body or fender repair.

Automobile Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. This definition does not include storage, body repair or auto salvage operations. **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 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.**

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: A tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage or boundary line of the corporate limits of the City.

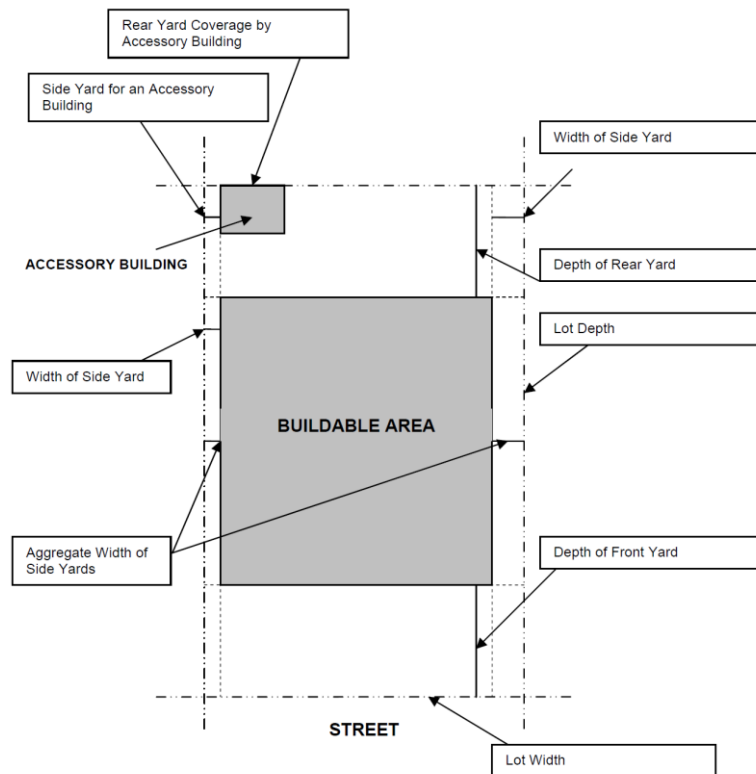
Boarding House: A building other than a motel, hotel or restaurant, where lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons, and not open to the public or transients.

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.

Building: The word “building” includes the word “structure” and is 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 Buildable Area: The portion of a lot remaining after required yards have been provided: 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).

Buildable Area Illustration



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.

Chain Link Fence: Chain link fencing does not mean chicken wire but a galvanized steel fence of a sufficient gauge (9 to 11 ½) similar to image below:



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.

City Council: The governing body of the City of Lake Preston.

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 City of Lake Preston, South Dakota. "See also Planning Commission."

Comprehensive Plan (Comprehensive Land Use Plan): The adopted long-range plan intended to guide the growth and development of the City of Lake Preston 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.

Conditional Use: 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, the Board of Adjustments may permit such uses when specific provision is made in the zoning district regulations. **A conditional use is any use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district. Conditional uses are subject to the 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.

Construction: Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

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 City Engineer shall establish such curb level or its equivalent for the purpose of this Ordinance.

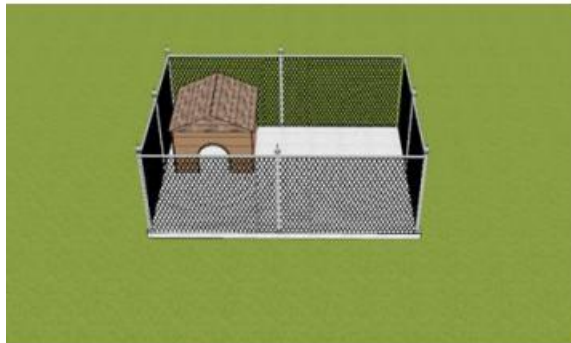
Day Care: Any operation which provides childcare services whether accessory to the caregiver's home or operated in a separate commercial structure.

Day Care Center: A commercial structure used for the purposes of providing childcare services. To be considered a Day Care Center under these regulations, 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.

DOG ENCLOSURE. An attached or detached outdoor structure intended for the exercising, containment, and/or sheltering of a dog or dogs. Not to include a fence constructed on the perimeter of the property. See example figures below.



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, Farm: Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

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 household 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 be 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.

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

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 of more than three (3) individuals not related by blood or marriage.

Farm: An area of ten (10) acres or more on which a bonafide business with the purpose of producing agriculture products and the incidental uses of horses, dogs, or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations. For purposes of this Ordinance, all land in like ownership being operated as a single economic unit shall be considered to be part of a single 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.**

Farm Unit: An area of ten (10) acres or more on which a bonafide business with the purpose of producing agriculture products and the incidental uses of horses, dogs, or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations. For purposes of this Ordinance, all land in like ownership being operated as a single economic unit shall be considered to be part of a single farm unit.

Feed Lot: A feedlot is defined as a parcel of land whereon there is contained an operation of feeding or raising animals.

Feedlot: A feedlot is a lot, yard, corral, building or other area where animals in excess of ten (10) animal units per acre or in excess of ten (10) animal units per parcel of land have been, are, or will be stabled or confined for a total of 45 days or more during any twelve-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility.

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.

Game Lodge: A building or group of two (2) or more detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged with or without meals, and in which there are sleeping quarters.

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.

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.

Health Club: A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

Height of Building: 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 4.20.

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.

Household 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 be in the same structure, and containing independent cooking and sleeping facilities.

Indoor recreation facility: 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 where more than two (2) dogs or cats over four (4) months of age are owned, boarded, raised, bred and 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.

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

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 lot is any plot or parcel of ground under one ownership occupied by one principal building or unit group of buildings, and the accessory buildings customarily incidental to such principal building or buildings and including all open spaces required by this Ordinance.

1. **Lot Area:** The lot area is the land in square feet, within the lot lines.

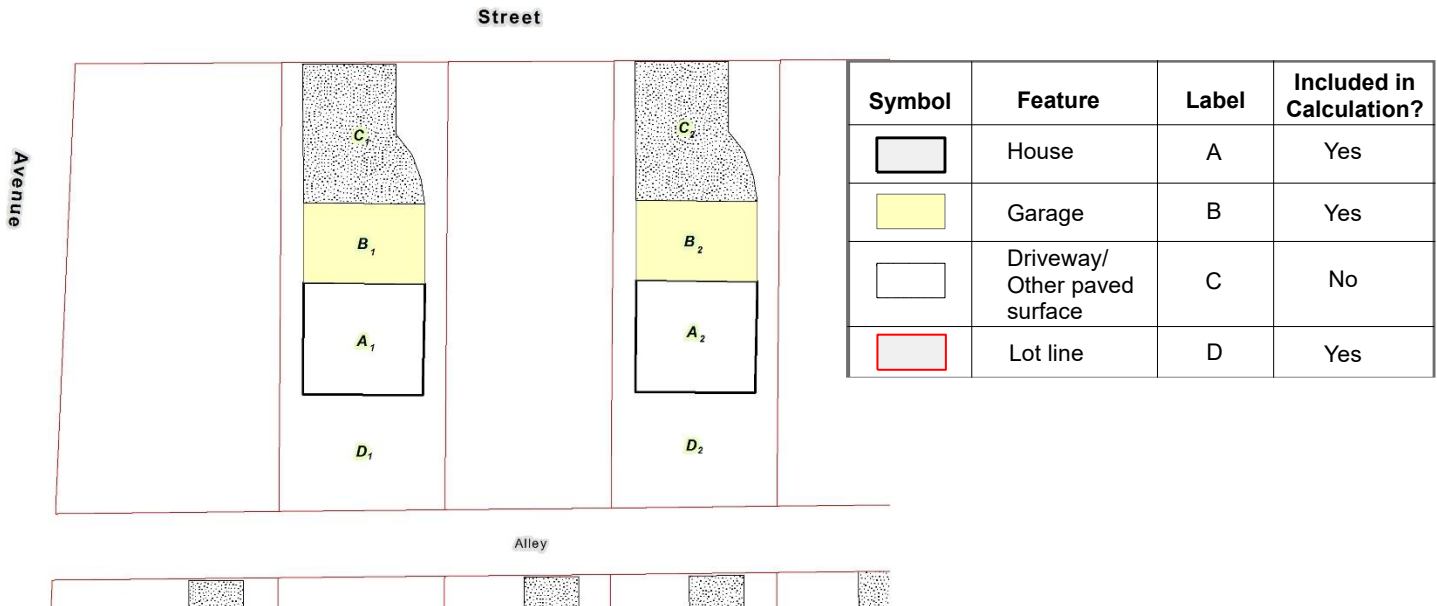
2. **Lot depth:** The depth of a lot is the mean distance from the street line of the lot to its rear line, measured in the general direction, of the side line of the lot.

3. **Lot Width:** the width of a lot is the mean distance between side lot lines measured at a point of fifty (50) feet from the street line thereof.

Lot: A parcel or tract of land having specific boundaries, and which has been recorded in the Register of Deeds office. Unless otherwise specified by this ordinance or allowed by the Board of Adjustment, 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.

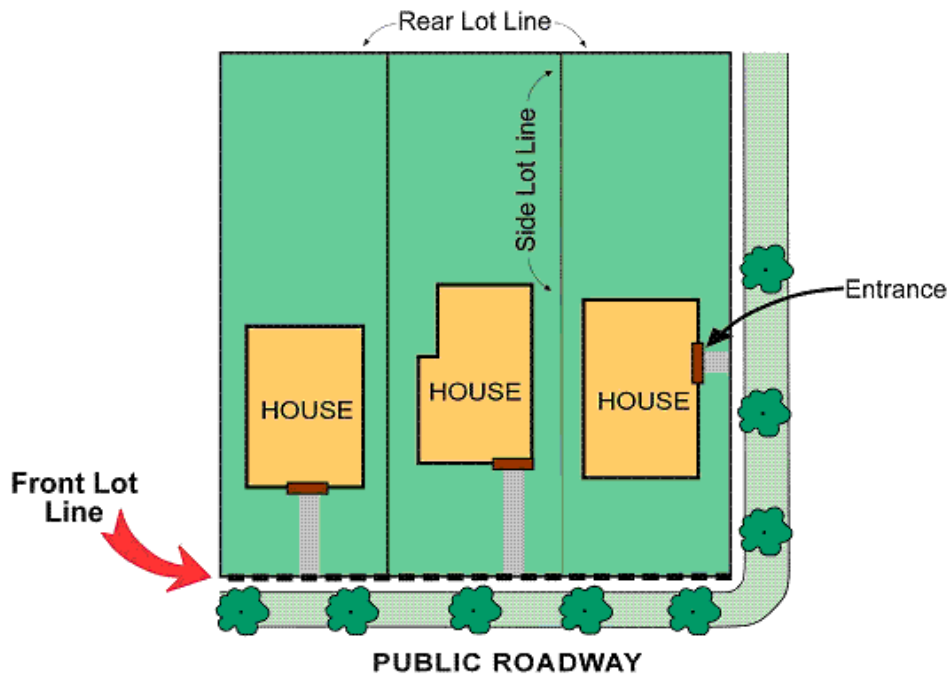
Lot Coverage: For the purposes of this Ordinance, the percentage determined by dividing the area of a lot covered by the total (in square feet of: (A) the footprint of the primary structure; and (B) the footprint(s) of all accessory structures by the total lot area (D). (See formula and figure below):

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 Kingsbury County Register of Deeds, prior to the adoption of this Ordinance **2026-01**.

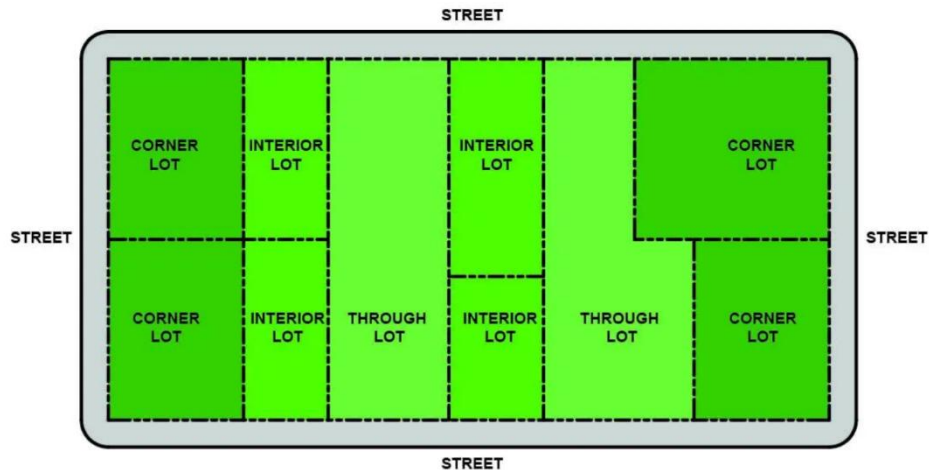
Lot Types: See figure below:

Corner lot: Defined as a lot located at the intersection of two or more streets **often with two front yards and specific rules for determining which street is the front.** 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. **A standard lot with only one side on a street, surrounded by other lots on its other three sides.** (Lot B)

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). **A lot where the main entrance and front yard face away from the main road (often an arterial or railroad), with the rear lot line facing the main street, sometimes for privacy or utility access.**

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)**



Manufactured Home: See Section 4.10.02

Manufactured Home Park: See section 2.07.05

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. See also Chapter 4.12
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 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 Section 4.10.01

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

Non-conforming Use: Any building or structure, 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 consisting 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, Off-street: An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with related access to a public street or alley, and maneuvering room. For purposes of rough computation, an off-street parking space may be estimated at three hundred (300) square feet, which has a minimum width of nine (9) feet and a minimum length of nineteen (19) feet.

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: Establishments providing nonmedically related services, including beauty and barber shops; clothing rental; dry cleaning pick-up stores; laundromats (self-service laundries); psychic readers; shoe repair shops; tanning salons; tattoo parlors; body piercing studios; etc. These uses may also include accessory retail sales of products related to the services provided.

Planning Commission: The appointed members of the Planning Commission serving in an advisory capacity on planning and zoning matters. The "Planning and Zoning Commission" required in South Dakota Compiled Laws 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.

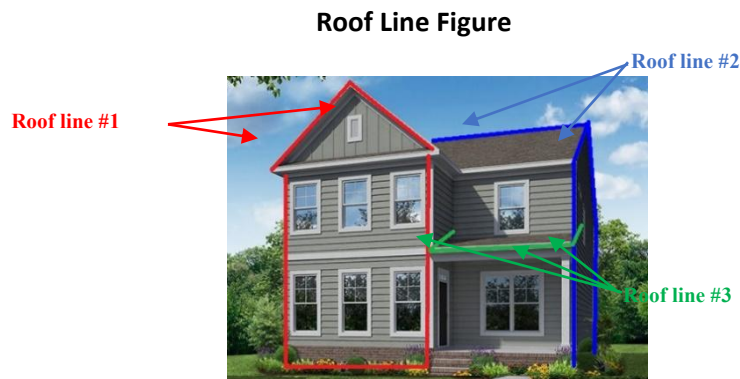
Private Wind Energy Conversion System (PWECS). A Wind Energy System designed for the purpose of converting wind energy into electrical or mechanical power to be consumed substantially by the permittee. No PWECS installed in accordance with the requirements of these regulations will generate power as an electric utility as defined by SDCL 49-34A-1.

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)



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.

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. **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. Also referred to as “yard” or “required yard.”**

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

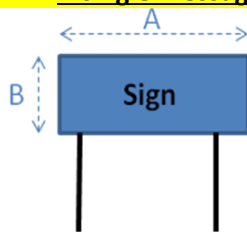
Sign. Means a name, identification, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, purpose, institution or business, however, the following 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, Abandoned: A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three (3) months shall be considered an abandoned sign.

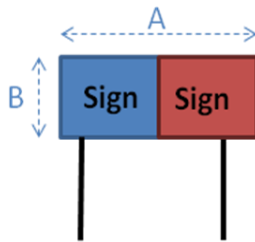
Sign Area: The total area or areas of all signs within the outer edges of the sign or advertising message. Sign area may be calculated in the following manners.

A. A single message on a single sign face.

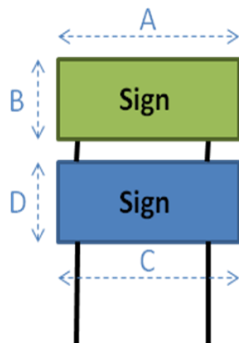


$$\text{Area} = A \times B$$

B. Multiple messages on a single sign face.



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.

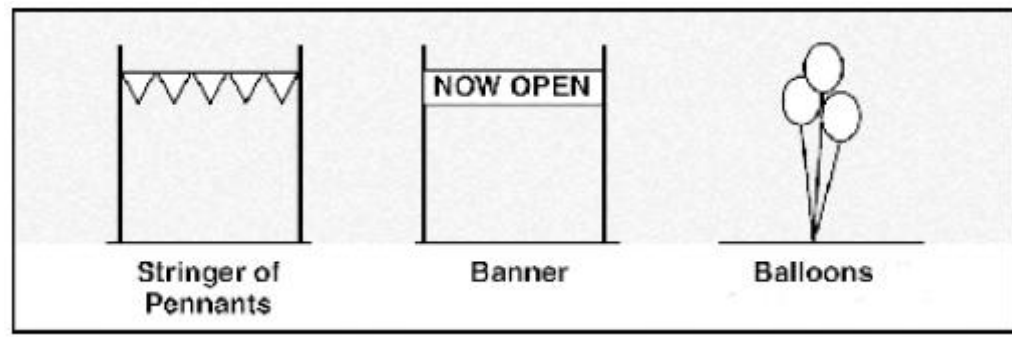
Sign (Real Estate): A sign placed upon property for the purpose of advertising the sale, lease, or availability for rent of property.

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

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

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."**

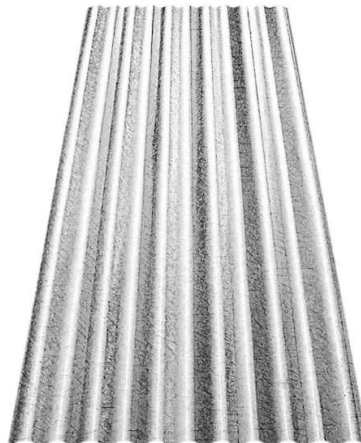
Stable: A building for the shelter and feeding of domestic animals, especially horses and cattle.

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.

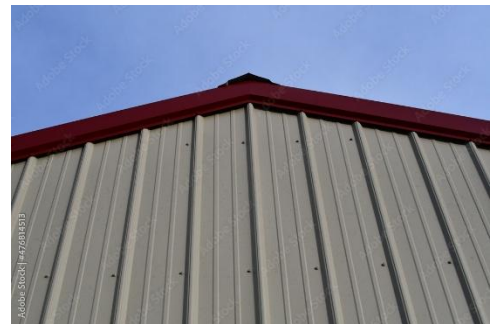
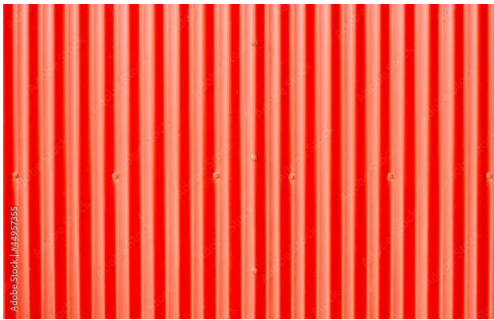
Steel Siding - Corrugated. A type of sheet iron or steel strengthened for use in construction by having a series of alternating grooves forced into it, not painted and usually galvanized for weather resistance. See figure below:

Steel Siding - Corrugated Galvanized Figure



Steel Siding - Conventional Non-Corrugated: A system of colored metal panels with exposed fasteners, installed in sheet form as an exterior wall covering on residential or commercial buildings. This term excludes Corrugated Steel Siding and Board-and-Batten Steel Siding. This siding is customarily installed in a vertical orientation but may also be installed horizontally. See figures below:

Steel Siding - Conventional Non-corrugated Figures



Steel Siding (Board and Batten: A colored vertical steel siding system with an embossed wood-grain texture (non-flat finish), designed to replicate traditional board-and-batten construction. The siding features wide vertical panels (“boards”) with narrower raised strips (“battens”) installed over panel joints.

Steel Siding, (Board and Batten) Figures



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: A right-of-way, dedicated to public use, which affords a primary means of access.

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. Streets may be further classified in accordance with the following terms referenced in the Comprehensive Land Use Plan for the City of Lake Preston:

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

Street Line: A right-of-way line of a street. See figure below.



Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings, manufactured homes, walls, fences, swimming pools, and signs.

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 City. 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.

Townhouses: See "Condominium."

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.

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.

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.

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 or size of yards and open spaces; 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 or areas of outdoor animal confinement.

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.

Wetlands: 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.

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 street or private right-of-way.

In the case of through lots, unless the prevailing front yard pattern of adjoining lots indicates otherwise, the front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the zoning officer may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage and a second front yard of half the depth required generally for front yards in the district shall be

provided on the other frontage.

In the case of corner lots with more than 2 frontages, the administrative official shall determine the front yard requirements, subject to the following limitations: (1) At least one front yard shall be provided having the full depth required generally in the districts; (2) No other front yard on such lot shall have less than half the full depth required generally.

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, 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.

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 City for which the regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.