

2014 Revised Zoning Regulations

for

McCook County

*Prepared by the South Eastern Council of Governments at the direction of the
Planning Commission and County Commission of McCook County, South Dakota*

(Updated Through Ordinance 2025-07, 11-25-25)

ORDINANCE NO. 2014-01

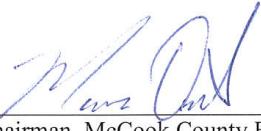
AN ORDINANCE ADOPTING THE 2014 REVISED ZONING REGULATIONS FOR MCCOOK COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY MCCOOK COUNTY, SD:

Section 1. That this Ordinance adopts the revised zoning regulations, as set forth in the document titled 2014 Revised Zoning Ordinance for McCook County; provides restrictions, district boundaries and zoning map; provides for the administration, enforcement and amendment of this Ordinance; and repeals any other ordinance or parts thereof in conflict with this Ordinance.

Dated this 23rd day of September, 2014.




Chairman, McCook County Board of
Commissioners

Terilyn Sherman
Auditor

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1

GENERAL PROVISIONS

1.01 Title and Application

These regulations may be referred to as the 2014 Revised Zoning Ordinance for McCook County.

1.02 Jurisdiction

The regulations and zoning district boundaries set forth in this Ordinance shall apply to all unincorporated land within McCook County except those areas which have been approved for municipal joint zoning jurisdiction.

1.03 Purpose

These regulations have been based upon the McCook County Comprehensive Plan and are in conformance with Chapter 11-2 of South Dakota Codified Laws. These regulations are designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended:

- * to secure safety from fire, panic and other dangers;
- * to promote health and the general welfare;
- * to provide adequate light and air;
- * to prevent overcrowding of land;
- * to avoid undue concentration or scattering of population; and
- * to facilitate the adequate provision of transportation, water, drainage, school, parks and other public requirements.

1.04 Provisions of Ordinance Declared to be Minimum Requirements

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not the intent to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where these regulations and other regulations, easement, covenant or deed restriction conflict or overlap whichever imposes the more stringent restrictions shall prevail. All other regulations inconsistent with these regulations are hereby repealed to the extent of this inconsistency only.

1.05 General Regulations

- A. Except as otherwise provided, no building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any structure or land be used:
 - 1. Except for a purpose permitted in the district in which the structure or land is located;
 - 2. Except in conformance with the height and minimum lot requirements, and the parking and sign regulations, and any other applicable requirements of the district in which the structure or land is located.
 - 3. Except in conformance with any Federal, State or County codes as may be applicable. Where these regulations and any other rules and regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- B. The density and yard requirements of these regulations are minimum regulations for each and every building existing at the effective date of these regulations and for any building hereafter erected or structurally altered. No land required for yards or other open spaces about an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.
- C. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on a lot except as otherwise provided in these regulations.
- D. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.

1.06 Penalties for Violation

It is unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure, or to use any land in violation of any regulation in this Ordinance. Any person, firm, association or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall be punishable pursuant to SDCL 7-18A-2; every day of violation shall constitute a separate offense.

1.07 Separability Clause

If any section, clause, provision or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

1.08 Repeal of Conflicting Ordinances

All prior ordinances or parts of prior ordinances in conflict with this Ordinance are hereby declared repealed.

1.09 Effective Date

These regulations shall be in full force and effect from and after its passage and publication as provided by law.

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DISTRICTS AND BOUNDARIES

2.01 Districts Designated

The County is hereby divided into the following districts:

AG	Agricultural
RR	Rural Residential
LR	Lake Residential
C	Commercial
LI	Light Industrial
HI	Heavy Industrial
FC	Flood Plain/Conservation
PD	Planned Development

2.02 Incorporated by Reference

The following are hereby adopted and incorporated by reference:

- A. The official zoning map(s) of the 2014 Revised Zoning Ordinance, together with all the explanatory matter thereon and attached thereto, is hereby adopted by reference and is declared to be a part of these regulations. The maps shall be filed with the Register of Deeds.
- B. The Flood Insurance Rate Map and Flood Insurance Study is hereby adopted by reference and declared to be a part of these regulations.
- C. The approved plans submitted in conjunction with any Planned Development are hereby adopted by reference and declared to be a part of these regulations.

2.03 Rules Where Uncertainty as to Boundaries Arises

Where uncertainty exists with respect to the boundaries of the various districts shown on the maps accompanying and made a part of these regulations by reference, the following rules apply:

- A. The district boundaries are roads unless otherwise shown, and where the districts are bounded approximately by roads, the road shall be construed to be the boundary of the district.

- B. Where the property has been or may hereafter be divided into blocks and platted lots, the district boundary shall be construed to coincide with the nearest platted lot lines; and where the districts are bounded approximately by platted lot lines, the platted lot lines shall be construed to be the boundary of the district, unless the boundaries are otherwise indicated on the maps.
- C. In unplatted property, the district boundary lines shall be determined by use of the scale appearing on the map or the legal description as indicated.

2.04 Vacation of Streets and Roads

Whenever any street, road or other public way is vacated, the zoning district adjoining each side of such street, road, or other public way is extended to the center of such vacation; and all area included in the vacation shall then and henceforth be subject to the appropriate regulations of the extended districts.

3

AG: AGRICULTURAL DISTRICT

It shall be the intent of this district to provide for a vigorous agricultural industry by maintaining and preserving suitable agricultural lands beyond areas of urban development primarily for agricultural production. While rural residences may be allowed, this district is intended to prioritize agricultural production over residential living. As such, any residences located within this district may be subject to inconvenience or discomfort from lawful agricultural operations in ways typically not experienced in urbanized areas. For purposes of this Chapter, agricultural operations may include, but are not limited to, the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the operation of machinery; the application of fertilizer, including animal waste; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with federal, state, and county laws. Discomforts and inconveniences may include, but are not limited to noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any twenty-four (24) hour period. Therefore, persons choosing to reside in this district should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural industry.

(Amended: Ord. No. 2021-02, 06-24-21)

3.01 Permitted Uses

Permitted Use	Applicable Standards
Agriculture	11.02
Single-family dwelling	If the following provisions for building eligibility are met: A. Each quarter-quarter section shall have one building eligibility when all the following conditions are met: 1. There are no other dwellings on the quarter-quarter section. 2. The building site shall be a minimum of one acre. 3. Approval has been granted by the appropriate governing entity for access onto a public road. 4. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use. 11.02, 11.04, 11.10 and not within identified flood plain area

Permitted Use	Applicable Standards
Single-family dwelling within a farmstead	<p>A building eligibility may be used within a farmstead provided:</p> <ul style="list-style-type: none"> A. The building eligibility exists on property contiguous to and under the same ownership as the farmstead. B. There will be no more than two dwellings within the farmstead. C. The residential structure may be a single-family dwelling or manufactured home <p>11.02, 11.04, 11.10 or 11.13 and not within identified flood plain area</p>
Single-family dwelling located on a lot of record	<ul style="list-style-type: none"> A. A lot of record consisting of less than 80 acres and containing no other dwellings shall have one building eligibility. B. A lot of record consisting of 80 acres or more shall qualify for building eligibility as follows: <ul style="list-style-type: none"> 1. The acreage of the lot of record shall be divided by 40 acres. The resulting whole number minus the number of existing dwellings shall represent building eligibility. 2. If there is more than one building eligibility, each additional building site shall be required to obtain a conditional use. C. Approval has been granted by the appropriate governing entity for access onto a public road. <ul style="list-style-type: none"> 1. Any parcel conveyed from a lot of record must be a minimum of one acre. The remaining portion of the lot shall be retained as agricultural land or in its present use. <p>11.02, 11.04, 11.10 and not within identified flood plain area</p>
Manufactured home	<p>11.02, 11.04, 11.06, 11.13 Subject to building eligibility being available.</p>
501(d) non-profit religious and apostolic association	<p>11.02, 11.04, 11.06, 11.10, 11.16</p>
Class B concentrated animal feeding operation (999 animal units and under)	<p>11.02 Not within identified flood plain area.</p>
Public park areas	<p>11.02, 11.06</p>
Neighborhood utility	<p>11.02</p>
Electrical substation	<p>11.02 An opaque screen, six feet in height, shall be located at all setback lines.</p>
Cemetery	<p>11.02, 11.06 Not within an identified flood plain area. At least two acres in size and adequate road system within cemetery.</p>
Shelter belts	<p>11.02</p>
School	<p>11.02, 11.04, 11.05, 11.06, 11.11</p>
Church	<p>11.02, 11.04, 11.05, 11.06, 11.11</p>
Veterinarian	<p>11.02, 11.03, 11.04, 11.05, 11.06</p>
Accessory use and structure (i.e. garage, shed)	<p>11.02, 11.03, 12.01 (<i>see definition</i>)</p>
Bed and breakfast establishment	<p>11.02, 11.06, 11.10, 11.14</p>

Permitted Use	Applicable Standards
Off-premise signs	11.02, 11.07

(Amended: Ord. No. 2020-06, 09-22-20)

3.02 Special Permitted Uses

Special Permitted Use	Applicable Standards
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(Amended: Ord. No. 2020-06, 09-22-20; Ord. No. 2024-01, 01-23-24)

3.03 Conditional Uses

Conditional Use	Applicable Standards
Golf course	11.02, 11.06, 17.01
Public utility facility	11.02, 11.04, 11.06, 11.11, 17.01 Not within an identified flood plain area.
Rock, sand or gravel extraction	11.02, 11.05, 11.06, 11.11, 11.17, 17.01
Mineral exploration	11.02, 11.05, 11.06, 11.11, 11.17, 17.01
Airport/heliport	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Roadside stand	11.02, 11.04, 11.06, 17.01
Firework sales	11.02, 11.04, 11.06, 17.01
Trap shoot, rifle range, pistol range	11.02, 11.04, 11.06, 11.11, 17.01
Wastewater treatment facility	11.02, 11.06, 17.01
Agribusiness	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Hunting lodge	11.02, 11.06, 11.10, 17.01
Major home occupation	11.12, 17.01
Public well	11.02, 17.01
Transfer of building eligibility	The transfer of an eligible building site from one quarter-quarter section to another quarter-quarter section within that quarter section when all the following conditions are met: <ol style="list-style-type: none"> There are no dwellings on the quarter-quarter section from which the building eligibility is being transferred. Suitability as a building site based on the following factors: <ol style="list-style-type: none"> Agricultural productivity of the soil. Soil limitations

Conditional Use	Applicable Standards
	<ul style="list-style-type: none"> 3. Orientation of the building site(s) with respect to road circulation and access to public rights-of-way. C. The minimum lot size shall be one acre but a larger area may be required when soil conditions warrant. D. The quarter-quarter section from which the eligibility is transferred shall continue as agricultural land or remain in its present use. E. Approval has been granted by the appropriate governing entity for access onto a public road. <p>11.02, 11.04, 11.10, 17.01 and not within identified flood plain area</p>
Wind energy conversion system	11.15, 17.01
Kennel	11.02, 11.04, 11.06, 17.01
Telecommunications tower	11.02, 11.04, 11.06, 11.09, 17.01
Class A concentrated animal feeding operation (1000 or more animal units)	<p>11.02, 11.08, 17.01 Not within identified flood plain area.</p>
Class B concentrated animal feeding operation (200 to 999 animal units)	<p>11.08 Not within identified flood plain area</p>
Class C concentrated animal feeding operation (50 to 199 animal units)	<p>11.08 Not within identified flood plain area Applies only to swine feeding operations</p>
Recreation facility	11.02, 11.04, 11.06, 17.01
Commercial solar energy conversion system	11.02, 11.04, 11.06, 17.01
Temporary Construction Facilities	11.02, 11.04, 11.05, 11.06, 17.01
Small Accessory Use Solar Energy System	11.02, 11.06, 11.19, 17.01

(Amended: Ord. No. 2019-01, 08-13-19; Ord. No. 2020-06, 09-22-20; Ord. No. 2024-03, 11-07-24; Ord. No. 2024-01, 01-23-24; Ord. No. 2024-02, 05-28-24)

3.04 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	150 feet	50 feet see #1, #2	30 feet see #1	30 feet	35 feet see #3

Exceptions

- #1 See Adjustment to Yard Regulations (Chapter 12) for specific exceptions.
- #2 The front yard off a private road shall be 30 feet from the closest edge of the road.
- #3 There is no height requirement for typical farm structures, antennas, wind energy conversion systems, water towers or other similar structures.

4

RR: RURAL RESIDENTIAL DISTRICT

The purpose of this district is to protect a vigorous agricultural industry by limiting the areas in which the RR Rural Residential District can be used.

4.01 Permitted Uses

Permitted Use	Applicable Standards
Single-family detached dwellings	11.02, 11.04, 11.06, 11.10, 11.11
Church	11.02, 11.04, 11.06, 11.11 One additional freestanding sign not to exceed 20 square feet in area.
School	11.02, 11.04, 11.06, 11.11 One additional freestanding sign not to exceed 20 square feet in area.
Neighborhood utility	11.02
Electrical substation	11.02, 11.11
Agriculture (cropping)	11.02
Accessory use and structure (i.e. garage, shed)	11.02, 11.03, 12.01 (<i>see definition</i>)

(Amended: Ord. No. 2025-06, 11-12-25)

4.02 Conditional Uses

Conditional Use	Applicable Standards
Manufactured home	11.02, 11.04, 11.06, 11.11, 11.13, 17.01
Group home	11.02, 11.04, 11.06, 11.11, 17.01 Structure must be a single housekeeping unit. Applicant must provide copy of state agency license.
Public service facility	11.02, 11.04, 11.06, 11.11, 17.01
Public utility facility	11.02, 11.04, 11.06, 11.11, 17.01
Group day care	11.02, 11.04, 11.06, 11.10, 11.11, 17.01 A safe pickup and drop off area must be provided for the children.
Day care center	11.02, 11.04, 11.06, 11.10, 11.11, 17.01 A safe pickup and drop off area must be provided for the children.
Golf Course	11.02, 11.04, 11.05, 11.06, 17.01

Conditional Use	Applicable Standards
Major home occupation	11.12, 17.01
Bed and breakfast establishment	11.02, 11.04, 11.06, 11.10, 11.14, 17.01
Wind energy conversion system	11.15, 17.01
Small Accessory Use Solar Energy System	11.02, 11.06, 11.19, 17.01

(Amended: Ord. No. 2024-03, 11-07-24)

4.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	125 feet see #1,#2	50 feet see # 3, #4	30 feet see #1, #4	25 feet	35 feet

Exceptions

- #1 A residence may be constructed on a lot-of-record which has a lot width of less than 125 feet. In this case, the side yard may be reduced to twenty (20) feet.
- #2 A lot located on a cul-de-sac bulb shall have a lot width of not less than 100 feet at setback line.
- #3 The front yard off a private road shall be 30 feet from the closest edge of the road.
- #4 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

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LR: LAKE RESIDENTIAL DISTRICT

5.01 Permitted Uses

Permitted Use	Applicable Standards
Single-family dwelling	11.02, 11.04, 11.06, 11.10, 11.11
Manufactured home	11.02, 11.04, 11.06, 11.11, 11.13
Neighborhood utility	11.02
Public parks/recreation areas	11.02, 11.04, 11.06
Agriculture (cropping)	11.02
Accessory use and structure (i.e. garage, shed)	11.02, 11.03, 12.01

5.02 Conditional Uses

Conditional Use	Applicable Standards
Major home occupation	11.12, 17.01
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Public service facility	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Private parks/recreation areas	11.02, 11.04, 11.05, 11.06, 17.01
Commercial outdoor recreation areas similar to public recreation areas	11.02, 11.04, 11.05, 11.06, 17.01
Campground	11.02, 11.04, 11.05, 11.06, 17.01
Small Accessory Use Solar Energy System	11.02, 11.06, 11.19, 17.01

(Amended: Ord. No. 2024-03, 11-07-24)

5.03 Area Regulations

Minimum Lot Requirements **	Depth	Frontage
All Uses	150 feet	75 feet

** Or have a minimum square footage of 11,250 square feet

Minimum Yard Requirements	General	Side
All Uses	Set back 65 feet from the normal high water mark, and 25 feet from all roads	9 feet, with overhang extending not more than 3 feet into the yard

5.04 Additional Regulations

A. Construction above highest known water level.

No structure except boat houses, piers, and docks shall be placed at an elevation such that the lowest floor, including basement, is less than 3 feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the elevation line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation the fill shall be required to stabilize before construction is begun.

B. Minimum Shoreline Alterations.

These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion, reduce effluent and nutrient flow from the shore land. Tree and shrub cutting in a strip paralleling the shoreline and extending a minimum of thirty-five (35) feet inland from all points along the normal high water mark of the shoreline shall be limited in accordance with the following provisions:

Cutting shall, at a minimum, leave sufficient cover to screen cars, dwellings, and accessory structures, except boathouses, as seen from the water; to preserve natural beauty and to control erosion.

Natural shrubbery shall, at a minimum, be preserved as far as practicable, and where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preserving natural beauty and preventing erosion.

C. Filling, Grading, Lagooning, and Dredging.

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.

A permit shall be required for any filling or grading of any area which is within three hundred (300) feet horizontal distance of a natural water body and which has surface drainage toward the water and on which there is:

Filling of more than five hundred (500) square feet of any wetland which is contiguous to the water; or

Filling or grading on all slopes of twenty (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); or

Exposure by grading of more than ten thousand square feet of the bank of a natural body of water.

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 three hundred (300) feet of the natural 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).

D. Minimum Sewer Requirements.

Installation of wastewater systems shall comply with the Administrative Rules of South Dakota, Chapter 74:53:01.

6

C: COMMERCIAL DISTRICT

The purpose of this district is to provide for a wide variety of commercial uses generally located at major intersections and along major roads with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space. It is not the intent of this district to encourage the extension or enlargement of strip commercial areas.

6.01 Permitted Uses

Permitted Use	Applicable Standards
Retail trade or service	11.02, 11.04, 11.05, 11.06, 11.11
Office	11.02, 11.04, 11.05, 11.06, 11.11
Personal service	11.02, 11.04, 11.05, 11.06, 11.11
Hotel/motel	11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle service station/gas dispensing station	11.02, 11.04, 11.05, 11.06, 11.11
Printing plant	11.02, 11.04, 11.05, 11.06, 11.11
Hospital/clinic	11.02, 11.04, 11.05, 11.06, 11.11
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11
Mortuary	11.02, 11.04, 11.05, 11.06, 11.11
Private club	11.02, 11.04, 11.05, 11.06, 11.11
Church	11.02, 11.04, 11.06, 11.11
Electrical substation	11.02, 11.11
Arcade	11.02, 11.04, 11.05, 11.06, 11.11
Day care center	11.02, 11.04, 11.05, 11.06, 11.11
Group day care	11.02, 11.04, 11.05, 11.06, 11.11
Group home	11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle repair shop	11.02, 11.04, 11.05, 11.06, 11.11 Adequate number of parking spots to store the cars and screen parts and materials from view.
Off-premise signs	11.02, 11.07

Permitted Use	Applicable Standards
Greenhouse/nursery	11.02, 11.04, 11.05, 11.06, 11.11
Drive-in theater	11.02, 11.04, 11.05, 11.06, 11.11
Car wash	11.02, 11.04, 11.05, 11.06, 11.11
Veterinarian	11.02, 11.04, 11.05, 11.06, 11.11
Bus passenger terminal	11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle sales, display, and service	11.02, 11.04, 11.05, 11.06, 11.11
Lumberyard	11.02, 11.04, 11.05, 11.06, 11.11
Contractor's shop and storage yard	11.02, 11.04, 11.05, 11.06, 11.11
Farm implement sales, display, and service	11.02, 11.04, 11.05, 11.06, 11.11
Bus/truck terminal	11.02, 11.04, 11.05, 11.06, 11.11
Farm store, feed store	11.02, 11.04, 11.05, 11.06, 11.11 Subject to only accessory storage of fertilizer or farm chemicals on the site.
Campground	11.02, 11.04, 11.05, 11.06, 11.11 Lot must contain at least 2,000 square feet. Access road on the campground site shall be fourteen feet for one way and twenty feet for two way roads. No campground may be occupied by the same person or persons for more than 30 days in any one calendar year.
Kennel	11.02, 11.04, 11.05, 11.06, 11.11
Commercial recreation facility	11.02, 11.04, 11.05, 11.06, 11.11
Neighborhood utility	11.02
Accessory use and structure (i.e. garage, shed)	11.02, 11.03, 12.01 (see definition)
Commercial parking lots/parking ramps	11.02, 11.04, 11.06

* measured from the closest point of the outside walls of both structures

6.02 *Conditional Uses*

Conditional Use	Applicable Standards
Adult oriented businesses	11.02, 11.04, 11.05, 11.06, 11.11, 17.01 & SDCL 11-12
Airport/heliport	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Off-sale alcoholic beverage establishment	11.02, 11.04, 11.05, 11.06, 11.11, 17.01

Conditional Use	Applicable Standards
Wind energy conversion systems	11.15, 17.01
Wireless communication facility	11.02, 11.04, 11.06, 11.09, 11.11, 17.01
Telecommunications tower	11.02, 11.04, 11.06, 11.09, 11.11, 17.01
Broadcast tower	11.02, 11.11, 17.01
Light manufacturing	11.02, 11.04, 11.05, 11.06, 11.11, 17.01 Gross square feet of facility shall not exceed 10,000 square feet.
Temporary Construction Facilities	11.02, 11.04, 11.05, 11.06, 17.01
Small Accessory Use Solar Energy System	11.02, 11.06, 11.19, 17.01

* measured from the closest point of the outside walls of both structures

(Amended: Ord. No. 2019-01, 08-13-19; Ord. No. 2024-03, 11-07-24)

6.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	125 feet	50 feet see #3,#4	30 feet see #1, #4	30 feet see #2	35 feet

Exceptions

- #1 A side yard of 50 feet shall be required where a lot is adjacent to or abuts a residential district.
- #2 A rear yard of 50 feet shall be required where a lot is adjacent to or abuts a residential district.
- #3 The front yard off a private road shall be 30 feet from the closest edge of the road.
- #4 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

7

LI: LIGHT INDUSTRIAL DISTRICT

This district is intended to provide for a number of light manufacturing, wholesale, warehousing, and service uses in an attractive industrial park-like setting. The industrial uses should be located at major intersections and along major roads with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space.

7.01 Permitted Uses

Permitted Use	Applicable Standards
Wholesale trade	11.02, 11.04, 11.05, 11.06, 11.11
Light manufacturing	11.02, 11.04, 11.05, 11.06, 11.11
Contractor's shop/storage yard	11.02, 11.04, 11.05, 11.06, 11.11
Office	11.02, 11.04, 11.05, 11.06, 11.11
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11
Neighborhood Utility	11.02
Frozen food locker	11.02, 11.04, 11.05, 11.06, 11.11
Printing plant	11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle service station	11.02, 11.04, 11.05, 11.06, 11.11
Off-premise signs	11.02, 11.07
Electrical substation	11.02, 11.11
Warehouse, mini-warehouse	11.02, 11.04, 11.05, 11.06, 11.11
Lumberyard	11.02, 11.04, 11.05, 11.06, 11.11
Retail trade or service	11.02, 11.04, 11.05, 11.06, 11.11 Only when it is an accessory use when in conjunction with the primary use of wholesaling or manufacturing.
Truck repair, sales and service	11.02, 11.04, 11.05, 11.06, 11.11 Subject to no unscreened outdoor storage of parts.
Farm implement sales, display and service	11.02, 11.04, 11.05, 11.06, 11.11 Screening of all outdoor storage from view.
Motor vehicle repair shop	11.02, 11.04, 11.05, 11.06, 11.11 An adequate number of parking spots to store the cars and screen parts and materials from view.

Permitted Use	Applicable Standards
Greenhouse/nursery	11.02, 11.04, 11.05, 11.06, 11.11

7.02 *Conditional Uses*

Conditional Use	Applicable Standards
Bus/truck terminal	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Truck or bus wash	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Recycling collection or processing facility	11.02, 11.04, 11.05, 11.06, 11.11, 17.01 Screening of all recyclable material from view.
Farm store or feed store	11.02, 11.04, 11.05, 11.06, 11.11, 17.01 Only accessory storage of fertilizer or farm chemicals on the site.
Automobile storage yard	11.02, 11.04, 11.05, 11.06, 11.11, 17.01 Screening of the storage yard with fence, berm vegetation or placement on the lot.
Veterinarian	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Wind energy conversion system	11.15, 17.01
Commercial solar energy conversion system	11.02, 11.04, 11.06, 17.01
Temporary Construction Facilities	11.02, 11.04, 11.05, 11.06, 17.01
Small Accessory Use Solar Energy System	11.02, 11.06, 11.19, 17.01

(Amended: Ord. No. 2019-01, 08-13-19; Ord. No. 2024-03, 11-07-24)

7.03 *Lot and Yard Regulations*

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	125 feet	50 feet see #4, #5, #6	30 feet see #2, #4, #6	30 feet see #3	45 feet see #1

Exceptions

- #1 Nonhabitable structures will be permitted to have a maximum height of 60 feet.
- #2 A side yard of 50 feet shall be required where a lot is adjacent to or abuts a residential district.

- #3 A rear yard of 50 feet shall be required where a lot is adjacent to or abuts a residential district.
- #4 There shall be a required front yard on each street side of a corner lot and double frontage lot.
- #5 The front yard off a private road shall be 30 feet from the closest edge of the road.
- #6 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

8

HI: HEAVY INDUSTRIAL DISTRICT

This district is intended to provide for general industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, or commercial establishment. All uses in this district shall comply with any state or local regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable. The industrial uses should be located at major intersections and along major roads with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space.

8.01 Permitted Uses

Permitted Use	Applicable Standards
Wholesale trade	11.02, 11.04, 11.05, 11.06, 11.11
General manufacturing other than those listed below	11.02, 11.04, 11.05, 11.06, 11.11
Farm store or feed store	11.02, 11.04, 11.05, 11.06, 11.11
Contractor's shop/storage yard	11.02, 11.04, 11.05, 11.06, 11.11
Bus/truck terminal	11.02, 11.04, 11.05, 11.06, 11.11
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11
Frozen food locker	11.02, 11.04, 11.05, 11.06, 11.11
Off-premise signs	11.02, 11.07
Electrical substation	11.02, 11.11
Retailing	11.02, 11.04, 11.05, 11.06, 11.11 Being an accessory use when in conjunction with a primary use of wholesaling or manufacturing.
A warehouse or mini-warehouse	11.02, 11.04, 11.05, 11.06, 11.11
Bus and truck wash	11.02, 11.04, 11.05, 11.06, 11.11
Truck repair, sales and service	11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle repair shop	11.02, 11.04, 11.05, 11.06, 11.11
Neighborhood utility	11.02
Greenhouse/nursery	11.02, 11.04, 11.05, 11.06, 11.11

8.02 Conditional Uses

Conditional Use	Applicable Standards
Distillation of products	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Refining	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Paper manufacturing; smelting; boilerworks	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Grain terminal; grain processing	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Manufacture and storage of electric transformers	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Recycling collection facility	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Fruit and vegetable canning and processing	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Manufacture of: acid, alcohol, ammonia, asphalt, bleach, cement, chlorine, dyestuffs, explosives, fertilizer, glue, gypsum, lime, oils, paint, plaster of paris, shellac, sizing, turpentine or yeast	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Stockyards/slaughtering of animals	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Rendering	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Tank farm; petroleum products terminal	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Junkyard	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Extraction of rock, sand and gravel	11.02, 11.04, 11.05, 11.06, 11.11, 11.17, 17.01
Mineral exploration and development	11.02, 11.04, 11.05, 11.06, 11.11, 11.17, 17.01
Quarry	11.02, 11.04, 11.05, 11.06, 11.11, 11.17, 17.01
Recycling processing facility	11.02, 11.04, 11.05, 11.06, 11.11, 17.01 Any outdoor storage of recyclable materials must be within an opaque screened area and all processing operations must be fully enclosed.
Solid waste transfer facility	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Airport	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Sanitary landfill	11.02, 11.04, 11.05, 11.06, 11.11, 17.01
Wind energy conversion system	11.15, 17.01
Commercial solar energy conversion system	11.02, 11.04, 11.06, 17.01

Conditional Use	Applicable Standards
Temporary Construction Facilities	11.02, 11.04, 11.05, 11.06, 17.01
Small Accessory Use Solar Energy System	11.02, 11.06, 11.19, 17.01

(Amended: Ord. No. 2019-01, 08-13-19; Ord. No. 2024-03, 11-07-24)

8.03 ***Lot and Yard Regulations***

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	125 feet	50 feet see #3, #4, #5	30 feet see #1, #3, #5	30 feet see #2	NA

Exceptions

- #1 A side yard of 50 feet shall be required where a lot is adjacent to or abuts a residential district.
- #2 A rear yard of 50 feet shall be required where a lot is adjacent to or abuts a residential district.
- #3 There shall be a required front yard on each street side of a corner lot and double frontage lot.
- #4 The front yard off a private road shall be 30 feet from the closest edge of the road.
- #5 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

9

FC: FLOOD PLAIN/CONSERVATION

The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to protect views, to preserve natural settings for wildlife habitats, to add to the aesthetic quality of the community, and to lessen the urban density.

9.01 Permitted Uses

Permitted Use	Applicable Standards
Agriculture	11.02
Golf course	11.02, 11.06 One freestanding sign allowed as allowed within 11.06.
Public park areas	11.02, 11.06
Electrical Substation	11.02, 11.11 An opaque screen, six feet in height, shall be located at all setback lines.
Cemetery	11.02, 11.06, 11.11 Not within an identified flood plain area.
Fence	11.02, 11.08
Neighborhood utility	11.02
Accessory use and structure (i.e. garage, shed)	11.02, 11.03, 12.01 (<i>see definition</i>)

9.02 Conditional Uses

Conditional Use	Applicable Standards
Single-family dwelling	If the following provisions for building eligibility are met: A. Each quarter-quarter section shall have one building eligibility when all the following conditions are met: 1. There are no other dwellings on the quarter-quarter section. 2. The building site shall be a minimum of one acre. 3. Approval has been granted by the appropriate governing entity for access onto a public road. 4. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use. 11.02, 11.04, 11.10, 17.01 and not within identified flood plain area

Conditional Use	Applicable Standards
Single-family dwelling within a farmstead	<p>A building eligibility may be used within a farmstead provided:</p> <ul style="list-style-type: none"> A. The building eligibility exists on property contiguous to and under the same ownership as the farmstead. B. There will be no more than two dwellings within the farmstead. C. The residential structure may be a single-family dwelling or manufactured home. <p>11.02, 11.04, 11.10 or 11.13, 17.01 and not within identified flood plain area</p>
Single-family dwelling located on a lot of record	<ul style="list-style-type: none"> A. A lot of record consisting of less than 80 acres and containing no other dwellings shall have one building eligibility B. A lot of record consisting of 80 acres or more shall qualify for building eligibility as follows: <ul style="list-style-type: none"> 1. The acreage of the lot of record shall be divided by 40 acres. The resulting whole number minus the number of existing dwellings shall represent building eligibility. 2. If there is more than one building eligibility, each additional building site shall be required to obtain a conditional use. C. Approval has been granted by the appropriate governing entity for access onto a public road. <ul style="list-style-type: none"> 1. Any parcel conveyed from a lot of record must be a minimum of one acre. The remaining portion of the lot shall be retained as agricultural land or in its present use. <p>11.02, 11.04, 11.10, 17.01 and not within identified flood plain area</p>
Manufactured home	<p>11.02, 11.04, 11.06, 11.13, 17.01 Subject to building eligibility being available.</p>
Home occupation	11.12, 17.01
Public utility facility	11.02, 11.04, 11.06, 11.11, 17.01
Rifle and pistol range, trap shoot	11.02, 11.04, 11.06, 11.11, 17.01
Private outdoor recreation facility	11.02, 11.04, 11.06, 11.11, 17.01
Rock, sand and gravel extraction	11.02, 11.04, 11.06, 11.11, 11.17, 17.01
Roadside stand	11.02, 11.04, 11.06, 11.11, 17.01
Fireworks sales	11.02, 11.04, 11.06, 11.11, 17.01
Day or summer camp	11.02, 11.04, 11.06, 11.11, 17.01
Stable	11.02, 11.04, 11.06, 11.11, 17.01
Kennel	11.02, 11.04, 11.06, 11.11, 17.01
Transfer of building eligibility	<p>The transfer of an eligible building site from one quarter-quarter section to another quarter-quarter section within that quarter section when all the following conditions are met:</p> <ul style="list-style-type: none"> A. There are no dwellings on the quarter-quarter section from which the building eligibility is being transferred.

	<ul style="list-style-type: none"> B. Suitability as a building site based on the following factors: <ul style="list-style-type: none"> 1. Agricultural productivity of the soil. 2. Soil limitations 3. Orientation of the building site(s) with respect to road circulation and access to public rights-of-way. C. The minimum lot size shall be one acre but a larger area may be required when soil conditions warrant. D. The quarter-quarter section from which the eligibility is transferred shall continue as agricultural land or remain in its present use. E. Approval has been granted by the appropriate governing entity for access onto a public road. <p>11.02, 11.04, 11.10, 17.01 and not within identified flood plain area</p>
Small Accessory Use Solar Energy System	11.02, 11.06, 11.19, 17.01

(Amended: Ord. No. 2024-03, 11-07-24)

9.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	150 feet	50 feet see #1	30 feet see #1	30 feet	35 feet

Exceptions

#1 See Adjustment to Yard Regulations (Chapter 12) for specific exceptions.

10

PD: PLANNED DEVELOPMENT DISTRICT

10.01 Purpose

These regulations are to encourage and allow more creative and imaginative design of land developments than is possible under traditional district zoning regulations. Planned Developments are intended to allow substantial flexibility in planning and designing a proposal. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in development that is better planned, that contains more amenities, and ultimately a development that is more desirable to live in than one produced in accordance with typical zoning ordinance and subdivision controls. An intrinsic, and often neglected, premise, upon which approval of a Planned Development must be conditioned, is that while greater density or more lenient site requirements may be granted, the Planned Development should contain features not normally required of traditional developments. Inherent to realizing these objectives, is continuous and in-depth scrutiny that the proposed Planned Development is being adhered to. Hence, to enable thorough analysis of a Planned Development, more information is demanded about the proposal than would be required if development were being pursued under conventional zoning requirements.

10.02 Objectives

Through proper planning and design, each Planned Development should include features which further, and are in compliance with, the following objectives:

- A. To allow for the design of developments that are architecturally and environmentally innovative, and that achieve better utilization of land than is possible through strict application of standard zoning.
- B. To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural ecologic conditions.
- C. To combine and coordinate architectural styles, building forms, and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner.
- D. To promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources.

- E. To enable land developments to be compatible with adjacent and nearby land developments.
- F. To ensure that development occurs at locations that are away from environmentally sensitive areas, and on land physically suited to construction.
- G. To promote the use of form based code within all PD developments.
- H. To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics.
- I. To encourage collaborative planning in order to achieve the above purposes.

10.03 Standards for Planned Developments

The Planned Development must meet the following standards:

- A. Comprehensive Plan - A Planned Development must conform with the objectives of the Comprehensive Plan of McCook County.
- B. Site and Ownership – All parcel owners within the site of the Planned Development must agree to be included in the district.
- C. Right to Farm Notice Covenant – An applicant of a Planned Development located in an agricultural area shall file a Right to Farm Notice Covenant, referenced in Chapter 15 of the McCook County Zoning Regulations.
- D. Compatibility - The uses permitted in a Planned Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties. In addition, the Planned Development shall not endanger the public health, welfare, or safety, nor shall it substantially diminish or impair property values in the neighborhood in which it is to be located.
- E. Density - A Planned Development District may provide for a variety of housing, commercial, and industrial types; densities; and cost levels, but such variety shall not be considered a condition required for approval. The total number of units allowable in a development shall be as established or determined by the density specified by the Planning Commission and County Commission based upon the particular development characteristics of each Planned Development proposal.
- F. A Planned Development may provide for a greater number of units per acre than would otherwise be permitted by the regulations applicable to the site; however, the applicant shall show that such excess will not have an undue and adverse impact upon existing public facilities and upon the reasonable use and enjoyment of neighboring property.

G. In determining the reasonableness of an increase in the authorized units per acre, the Planning Commission shall recognize that increased density may be compensated for by the provision of additional physical amenities, by increased efficiency in public facilities and services, or by preservation of natural resources and amenities beyond ordinance requirement. Such compensation for higher density may be achieved by:

1. The location, amount, and proposed use of common open space.
2. The location, design, and type of housing units, commercial, and industrial uses.
3. The physical characteristics of the site.

H. Parking Requirements - Adequate parking shall be provided for the uses within the district and as warranted by the particular characteristics of the proposed Planned Development.

I. Traffic - Adequate provision shall be made to provide ingress and egress from existing public roads.

J. Departure from Standards - The Planned Development may depart from strict conformance with the required density, dimension, area, height, bulk, use and specific content regulations of other districts in the Zoning Regulations. Departure from any requirement specified in this Ordinance or other County ordinances and regulations requires documentation in the final adopted regulations.

10.04 Procedure for Planned Developments

A three-step procedure is required for Planned Developments.

I. Step 1: Rezoning Procedure

Intent: The intent of the Rezoning procedure is to provide a general awareness of the proposed Planned Development. This procedure allows the Planning Commission to determine the suitability of a proposed Planned Development District for this project.

- A. Pre-Application Conference: Prior to the filing of an application for a rezone to a Planned Development, the prospective applicant may request of the Planning Commission one (1) informal meeting to discuss the development of the proposed Planned Development site in conjunction with the County's adopted planning rationale and its compatibility with existing and anticipated land uses in the vicinity. Said meeting may be a part of a regularly scheduled meeting, shall be open to the public, and included on the agenda in advance of the meeting.
- B. The Pre-Application conference is not mandatory nor does it require formal application fee, or filing of a Planned Development plat. However, the expenses incurred by the County as a result of any additional conferences in excess of the one (1) entitled conference with the Planning Commission to discuss the development of

the proposed Planned Development site, within a period of one (1) year from the date of the initial Planning Commission conference on the said proposed Planned Development site, shall be paid for by the prospective applicant.

- C. Pre-Application Document Review: Prior to the filing of an application for approval of a Planned Development, either before, after, or in lieu of the Pre-Application Conference, all prospective applicants shall review copies of the McCook County Comprehensive Plan, McCook County Zoning Ordinance, McCook County Zoning Map, McCook County Subdivision Ordinance and the Planned Development Sections of this Ordinance, which are available for inspection at the County Courthouse. The Plan shall be evaluated by the petitioner in order to determine the consistency of the proposal with the County's adopted planning rationale. The Zoning Map shall be reviewed to ascertain whether or not the proposal is likely to be compatible with existing and anticipated land uses in the vicinity of the proposal. The Planned Development sections of this Ordinance shall be reviewed to insure familiarity with the County's Planned Development procedures.
- D. Procedure: A request for PD rezoning shall be submitted to the Zoning Administrator for review. The Zoning Administrator shall review the complete application package and forward it with his/her comments to the Planning Commission for review at the next regularly scheduled meeting, if submitted at least three (3) business days prior to said meeting. The Zoning Administrator shall set the date, time and place for a Planning Commission public hearing on the Rezoning. The required procedure for review of the PD Rezoning shall be:
 - 1. Submission of complete rezoning application package containing the items required of a Rezone petitioner as identified under Section 10.05 (A) Submission Requirements of this Chapter.
 - 2. The Planning Commission shall hold a public hearing on the application for a Planned Development rezone in accordance with Chapter 18 Amendments and Change of Zone in the county zoning regulations. Following the public hearing and review of the Rezoning submission, the Planning Commission shall recommend approval or disapproval of the rezoning, and the reasons therefore to the County Commission not later than at its next regularly scheduled meeting unless a special meeting or an extension is requested by the petitioner. Standards for determining the approval of rezoning shall be based on the following:
 - a. Does the project concept meet the intent of the Comprehensive Plan;
 - b. Are necessary utilities at, or available to the site;
 - c. Will the concept produce a better design than traditional zoning with respect to natural and environmental features.

3. The County Commission shall set the date, time and place for a County Commission public hearing on the rezoning. The County Commission shall hold a public hearing on the application for a Planned Development Rezoning in accordance with Chapter 18 Amendments and Change of Zone in the county zoning regulations. Following the public hearing and review of the rezoning submission, the County Commission shall approve or disapprove the Rezoning not later than at its next regularly scheduled meeting, unless an extension is requested by the petitioner.

II. Step 2: Collaborative Design Procedure

Intent: The intent of the Collaborative Design Procedure (CDP) is to obtain input of the interested stakeholders for the development of a parcel(s) of land submitted as part of the Planned Development rezoning application. In an effort to meet the objectives of the district, the Planning Commission may require the petitioner to engage in dialog with interested stakeholders, through a minimum of three (3) separate meetings, to develop a conceptual plan dependant on the size and complexity of the project.

- A. **Procedure:** After approval of the rezoning request, the applicant shall submit a CDP plan to the Zoning Administrator. He/she will forward it to the Planning Commission for Approval at the next regularly scheduled meeting if submitted at least three (3) business days prior to said meeting. The required procedure for review of the CDP Plan shall be:

1. Submission of the items required of a CDP Plan petitioner as identified under Section 10.05 (B) Submission Requirements of this Chapter.
2. The Planning Commission shall at its next regularly scheduled meeting, unless a special meeting or an extension is requested by the petitioner, recommend approval, modification, or disapproval of the CDP Plan.
3. The Zoning administrator, after approval of the CDP Plan from the Planning Commission, shall arrange for two (2) public notices, at least five (5) days apart, of the Collaborative Design meetings in addition to posting a notice at the site.

III. Step 3: Conceptual Plan Procedure

Intent: The intent of the Conceptual Plan Submission is to obtain approval of the County for the development of a parcel(s) of land in accordance Planned Development application. The petitioner is explicitly committing the subject property to a specific arrangement of land uses at a specific range of densities. In return the petitioner is receiving, through rezoning for a Planned Development, a county commitment that, following conceptual plan approval, the petitioner can proceed to subsequent steps of the Planned Development procedure with assurance that if the agreed upon concept is carried

forth, preliminary and final plat approval will be granted. This procedure allows for approval of an overall concept without the necessity of prejudging long-range markets.

A. Procedure: A request for approval of a Conceptual Plan shall be submitted to the Zoning Administrator for review.

1. Items required are identified under Section 10.05 (C) Submission Requirements of this chapter. The Zoning Administrator shall review the Conceptual Plan and forward the Conceptual Plan and his/her comments to the Planning Commission for review at the next regularly scheduled meeting, if submitted within three (3) business days of said meeting.
2. The Planning Commission shall review the plan and make a recommendation for approval, modifications to, or denial of the Plan to the County Commission.
3. The Zoning Administrator, after receipt of the Conceptual Plan from the applicant, shall set the date, time and place for a County Commission public hearing on the Conceptual Plan. The hearing must be held within thirty (30) days of submission. Following the public hearing and review of the Conceptual Plan submission, the County Commission shall approve, request modifications of, or disapprove the Conceptual Plan at the next regularly scheduled meeting, unless a special meeting or an extension is requested by the petitioner.

10.05 Submission Requirements

A. Rezoning Stage

1. At the time application is made for Rezoning approval, the following items must be submitted to the Zoning Administrator:
 - a. Application: A written application for a Planned Development on forms supplied by the Zoning Administrator.
 - b. Fee: A fee, established by the County Commission that is suitable to cover the costs incurred by the County for review of the rezoning request.
 - c. Notification List: A list of the names and addresses of owners of property that is situated within one mile of the property lines of the subject site. This list shall be current as of the date of submission. People appearing on said list will be sent notice of the public hearing in compliance with statutory requirements. In addition, the responsible fire protection district (if any), affected school districts, affected park districts (if any), and affected sanitary, water, and/or drainage district (if any) shall appear on a separate list of notification. The County Highway Department will also be notified. Additional parties, specified

by the petitioner, may appear on the notification list. Interested community groups, such as homeowner's associations, may request notification for projects within adjoining areas. Failure to provide an accurate list of names and addresses as required above shall cause the rezoning application to be deemed incomplete.

- d. Ownership: A statement of present and proposed ownership of all land within the development.
- e. Legal Description: A legal description of the subject site.
- f. Site Data: A list of pertinent site data, including;
 - i. Acreage of site.
 - ii. Estimated number of dwelling units proposed and anticipated population.
 - iii. Estimated areas of industrial, commercial, institutional, and recreational, land uses.
 - iv. Proposed densities of residential areas.
 - v. Other uses that will be allowed within the district.
- g. Objectives: A statement indicating how the proposed Planned Development corresponds to and complies with objectives for Planned Developments as previously stated in section 10.02 of this Chapter.
- h. Land Use and Zoning Exhibit: A graphic portrayal of existing land use and zoning patterns within a minimum of one (1) mile of the subject site.

B. Collaborative Design Procedure (CDP) Stage

- 1. The Collaborative Design Procedure (CDP) shall contain the following items to be submitted to the Zoning Administrator:
 - a. The date, time, location and estimated length of each of the three (3) stakeholder meetings.
 - b. Fee: A fee, established by the County Commission that is suitable to cover the costs incurred by the County for posting of all public notifications required.
 - c. Notification List: A list of the names and addresses of owners of property that is situated within one mile of the property lines of the subject site. This list shall be current as of the date of submission. People appearing on said list will be sent notice of the public meetings in compliance with this stage's requirements. In addition, the responsible fire protection district (if any), affected school districts, affected park districts (if any), and affected sanitary, water, and/or drainage district (if any) shall appear on a separate list of notification. The County Highway Department will also be notified. Additional

parties, specified by the petitioner, may appear on the notification list. Interested community groups, such as homeowner's associations, may request notification for projects within adjoining areas. Failure to provide an accurate list of names and addresses as required above shall cause the CDP to be deemed incomplete.

C. Conceptual Plan Stage

1. At the time application is made for Conceptual Plan approval, ten (10) copies of all subsequent listed information shall be submitted (with the exception of non-reproducible exhibits) to the Zoning Administrator:
 - a. Concept Plan: A drawing of the Planned Development shall be prepared at a scale that provides for a clear understanding of the way in which the property is intended to be developed. The Plan shall indicate the concept of the development with refinements to indicate the overall land use pattern, general circulation system, open space or park system, and major features of the development. This Section does not require a detailed site plan of buildings, walks, etc. The Plan should include:
 - i. Boundary lines and dimensions of the subject site.
 - ii. Existing and proposed easements, showing the general location and purpose.
 - iii. Streets on, adjacent, or proposed for the tract, including all rights-of-way.
 - iv. Map data, including the name of the development, name of site planner, north point, scale, and date.
 - b. Site Data: A list of pertinent site data, including:
 - i. Description and quantity of land uses.
 - ii. Acreage of site.
 - iii. Number of dwelling units proposed and anticipated population.
 - iv. Area of industrial, commercial, institutional, recreational, and circulation.
 - v. Land uses proposed.
 - vi. Densities of residential areas.
 - c. Objectives: A statement indicating how the proposed concept plan corresponds to and complies with objectives for Planned Developments as previously stated in section 10.02 of this Chapter.
 - d. Schedule: Development schedule indicating Phases in which project will be built with emphasis on area, density, use, and public facilities such as open space to be developed with each phase.
 - i. Overall design of each phase shall be shown on the Plat and through supporting graphic material.

- ii. Approximate dates for beginning and completion of each phase. If different land use types are to be included within the Planned Development, the schedule must include the mix of uses anticipated to be built in each phase.
- e. Utilities: Statement indicating that sanitary sewer, storm sewer, and water are directly available to the site, or if well and septic systems are proposed, a statement from a licensed professional engineer indicating that the proposed development can be suitably served by such systems.
 - i. If utilities are not directly available to the subject site, but can be made available in a manner consistent with the County's Comprehensive Plan, prudent engineering principles, and with utility capacity parameters, then utilities may be permitted to be extended to the site. If extension of utilities is proposed, the petitioner shall submit a statement indicating the estimated improvement costs and projected source of funding for the necessary improvements. For purposes of this Section, utilities shall be considered to be "not directly available" if located more than five hundred (500) feet from the boundaries of the subject site. This provision shall apply to the extension of sanitary sewer, storm sewer, and water utilities only.
- f. If traffic or roadway improvements external to the subject site are anticipated as a result of the proposed development, the petitioner shall submit a statement indicating the nature and extent of those contemplated improvements. Included in said statement shall be information pertaining to what proportion of the external traffic and roadway improvements made necessary as a result of the Planned Development, if any, the developer will pay for. All internal traffic and roadway improvements associated with the Planned Development shall be paid for by the developer.
- g. Land Use and Zoning Exhibit: A graphic portrayal of existing land use and zoning patterns within a minimum of one (1) mile of the subject site.

10.06 Changes in the Planned Development

- A. The Planned Development shall be developed according to the approved and recorded Final Plat and all supporting data. The recorded Final Plat and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees, and assigns and shall limit and control the use of premises and location of structures in the Planned Development project as set forth therein.
- B. Changes to the recorded Planned Development may be made as follows:
 - 1. Major Changes

- a. Changes which alter the concept or intent of the Planned Development including increases in density, changes in the height of buildings, reductions of proposed open space, changes in the development schedule, changes in road standards, or changes in the final governing agreements, or provisions, may be approved only by submission and reconsideration of a new Preliminary and/or Final Planned Development Plat and supporting data and following the Preliminary or Final Plat procedure.
- b. If the major change alters data or evidence submitted during the Conceptual Plan or Preliminary Plat phase, then the resubmission must begin at the Preliminary Plat phase. If only Final Plat evidence or data is altered as a result of the major change, then the resubmission shall begin at the Final Plat phase.
- c. If major changes are proposed, a new public hearing shall be required during resubmission of the Final Plat.
- d. All changes to the "original" Final Plat shall be recorded with the County Register of Deeds as amendments to the Final Plat or reflected in the recording of a new "corrected" Final Plat.

2. Minor Changes

- a. The County Commission may, in accordance with procedures established in their rules, approve minor changes in the Planned Development which do not change the concept or intent of the development. Minor changes shall be any change not defined as a major change.

10.07 Revocation and Extension

- A. A Planned Development shall become null and void and the subject property shall thereupon be rezoned to its most appropriate district classification, as deemed suitable by the County Commission acting upon the recommendation of the Planning Commission, in any case where said Planned Development has:
 1. Received Conceptual Plan approval and where the Preliminary Plat of said Planned Development, of the first phase of the Preliminary Plat if construction is to take place in phases, has not been submitted for approval within two (2) years after the date of approval of said Conceptual Plan. The County Commission may grant a one (1) year extension, with just cause, if requested by applicant.

10.08 Conditions and Guarantees

- A. Prior to the granting of any Planned Development, the Planning Commission may recommend, and the County Commission may stipulate, such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation, and other elements of the Planned Development as deemed necessary

for the protection of the public interest, improvement of the development, protection of the adjacent area and to secure compliance with the standards specified in Section 10.03. In all cases in which Planned Developments are granted, the County Commission may require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection with the approval of the Planned Development are being complied with.

10.09 Planned Development Districts

Planned development districts shall be as enumerated below:

11

ADDITIONAL USE REGULATIONS

11.01 Reserved

11.02 Visibility at Intersections and Driveways

- A. Intersection safety zones: No monument style sign or other sign with its face less than twelve (12) feet above grade or any fence, wall, shrub or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted or maintained within a triangular area of a corner lot that is included by measuring straight lines along the curb lines at points 40 feet distant in each direction from the intersection of the curbs and a straight line connecting the first two lines.
- B. Shelter Belts: Shelter belts of one or more rows shall be setback 25 feet from the road right-of-way line. Replacement of or addition to rows in an existing shelter belt shall be exempt from this requirement, as long as no further encroachment into the required setback occurs.

11.03 Accessory Use and Structures

Accessory uses and structures shall conform to the following standards:

- A. A private residential garage used only for the housing of noncommercial passenger automobiles. The height shall not exceed a one-story dwelling in LR Lake Residential and RR Rural Residential districts.
- B. Any accessory building which covers more than 144 square feet shall be secured to the ground to prevent the structure from being moved or damaged by high winds.
- C. Accessory buildings may not be used for dwelling purposes.
- D. Yard setbacks may be adjusted as according to 12.02.

11.04 Off-Street Parking

- A. General Conditions
 - 1. No parking spaces are permitted in the required front or side yard in any district except for portions of the front yard necessary for hard surfaced driveways or as otherwise provided in this title.

2. Driveways shall not exceed 30 feet in width. An exception for 40 feet driveways shall be allowed for businesses expecting tanker truck traffic.
3. Parking spaces may be permitted in any required rear yard.
4. Each parking space shall be directly accessible to an access aisle.

B. Required Parking Spaces

In computing the number of required off-street parking spaces the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional spaces result, the parking spaces required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all other districts, see table below:

Minimum Off-Street Parking & Loading Requirements

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
1 & 2 Family dwellings	2 spaces per unit
Multiple dwellings - 2 bedrooms or less	1.5 spaces per unit
Multiple dwellings - 3 bedrooms or more	2 spaces per unit
Multiple dwellings - elderly & handicapped	.75 spaces per unit
Rooming and boarding houses	1 space per 2 beds
Church or temple	1 space for each 4 seats in main auditorium
High school	1 space for each 3 students
Middle school	25 spaces plus 1 space for each teacher and staff person
Elementary school	5 spaces plus 1 space for each teacher and staff person
Hospital	1 ½ spaces per bed
Sanitarium or institutional home	1 space for each 3 beds
Auditoriums and theaters	1 space for each 4 seats
Hotel or motel	5 spaces plus 1 for each sleeping room or suite
Manufacturing, processing, assembly, industry, contractors shop, storage building, research laboratory, bottling plant, warehouse, or car wash	.75 parking spaces for each employee on the maximum shift and additional space for trucks and vehicles used in connection with the proposed use
Restaurant, bar, cafe, or recreation/amusement establishment	1 space for each 100 square feet of floor area
Bowling alley	3 spaces per alley
Day care centers	2 space for every 3 staff persons and 1 space for every 8 children licensed

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Retail and all other uses	1 space for each 300 square feet of floor area

11.05 Off-Street Loading Requirements

There shall be provided at the time any building is erected or structurally altered, off-street loading spaces for the following uses.

Use	Gross square feet floor area	Number of Off-street loading spaces
Office buildings	25,000 - 50,000 every additional 75,000	One 14' x 35' space Add one 14' x 35' space
Retail, service and trade Establishments and industrial and wholesale commercial	5,000 - 20,000 20,000 - 100,000 Every additional 75,000	One 14' x 35' space Two 14' x 35' spaces Add one 14' x 35' space

11.06 On-Premise Signs

The following regulations shall govern the location, area and type of signs:

A. General Sign Requirements.

1. All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended, or supported so that they will not be a menace to the safety of persons or property.
2. No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential district, because of lighting glare, focus, animation or flashing of a sign, lighting or advertising device shall be erected or continued in operation.
3. No revolving beacon" or "fountain" sign shall be permitted in any district.
4. No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.
5. Ground signs shall not be located on public property except by specific approval of the Board of Adjustment.
6. Temporary signs or banners on or over public property may be authorized by the Board of Adjustment for a period not to exceed ten (10) days.
7. Signs projecting over a street, alley or other public space shall project not more than ten (10) feet and be no closer than two (2) feet to a plumb line from curbline; clearance below such signs shall be a minimum of nine (9) feet.
8. Roadside market signs (those advertising produce grown and sold on the premises on which they are located) shall not remain continuously erected more than six (6) months of any calendar year.

B. Rural Residential Districts/ Lake Residential.

1. One identification sign shall be permitted per residential use provided such sign does not exceed two (2) square feet in area; said sign may be wall, pedestal, ground, or projecting type (but not projecting over public property).
2. One sign of a temporary nature, such as "for sale" or "for rent" shall be permitted per residential use provided such sign does not exceed six (6) square feet and is not lighted; said sign may be wall, pedestal, or ground type.

C. Agricultural Districts.

Signs advertising use of particular breed, type, variety, hybrid, brand of plant, chemical, or tillage; or similar; shall be permitted providing such signs and devices are located at least one thousand (1,000) feet from any existing advertising sign or device. No sign shall exceed 32 square feet in area. No trespassing, no hunting and similar signs shall be permitted and shall be limited to 2 square feet.

D. Public or Semi-public Uses.

One identification sign shall be permitted per public or semi-public use provided such sign does not exceed ten (10) square feet in area; said sign may be wall, pedestal, ground or projecting type.

E. Industrial Parks.

No billboards or advertising signs other than those identifying the name, business and products of the person or firm occupying the premises shall be permitted. And all such signs must be wholly supported by and attached to the walls and supports of said building, except that a detached sign not to exceed to ten (10) feet by twenty (20) feet in size offering the premises for sale or lease may be permitted.

F. FC, C, LI and HI Districts. No restrictions except the general sign requirements of Section 11.06 above.

11.07 Off-Premise Signs

Off-premise signs are allowed in the A, C, LI, and HI Districts subject to the following regulations:

A. General Sign Requirements.

1. All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended, or supported so that they will not be a menace to the safety of persons or property.
2. No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential district, because of lighting glare, focus, animation

or flashing of a sign, lighting or advertising device shall be erected or continued in operation.

3. No revolving beacon" or "fountain" sign shall be permitted in any district.
4. No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.
5. Ground signs shall not be located on public property except by specific approval of the Board of Adjustment.
6. Temporary signs or banners on or over public property may be authorized by the Board of Adjustment for a period not to exceed ten (10) days.
7. Signs projecting over a street, alley or other public space shall project not more than ten (10) feet and be no closer than two (2) feet to a plumb line from curbline; clearance below such signs shall be a minimum of nine (9) feet.

11.08 Concentrated Animal Feeding Operations (CAFOs)

A. Intent and Scope.

It is the intent of this section to provide for a viable livestock industry within agriculturally zoned areas of McCook County, protect ground and surface waters and ensure that concentrated animal feeding operations (CAFOs) are properly sited, maintained, and managed. CAFOs are hereby classified as Class A containing one thousand (1,000) or more animal units as defined in these regulations, Class B containing two hundred (200) to nine hundred-ninety-nine (999) animal units and Class C containing fifty (50) to one hundred-ninety nine animal units as defined in these regulations. Class C applies only to swine feeding operations.

Any person who owns, operates, or proposes to own or operate a Class A CAFO as defined in these regulations shall be required to apply for a conditional use permit whenever any of the following occurs: (1) a new operation is proposed where one does not exist; (2) the number of animal units at an existing or permitted operation increases beyond what a current permit allows; (3) the species of confined animals changes; (4) a signed complaint is received or made by the Planning and Zoning Administrator or the South Dakota Department of Agriculture and Natural Resources (DANR) and inspection reveals the operation is in violation of county, state, or federal regulations; and/or (5) an operation has been non-operational for forty-eight (48) consecutive months.

Any person who owns, operates, or proposes to own or operate a Class B CAFO as defined in these regulations shall be required to apply for a conditional use permit whenever any of the following occurs: (1) a new operation is proposed where one does not exist; (2) the number of animal units at an existing operation increases to an amount for which approval is required; (3) the number of animal units at an existing Class A CAFO, whether permitted or a non-conforming use, decreases to an amount for which approval is required; (4) the species of confined animals changes; (5) a signed complaint is received or made by the Planning and Zoning Administrator or the DANR and inspection reveals the operation is in violation of county, state, or federal regulations; and/or (6) an operation has been non-operational for forty-eight (48) consecutive months.

Any person who owns, operates, or proposes to own or operate a Class C CAFO as defined in these regulations shall be required to apply for a conditional use permit whenever any of the following occurs: (1) a new operation is proposed where one does not exist; (2) the number of animal units at an existing operation increases to an amount for which approval is required; (3) the number of animal units at an existing Class A or Class B CAFO, whether permitted or a non-conforming use, decreases to an amount for which approval is required; (4) the species of confined animals changes; (5) a signed complaint is received or made by the Planning and Zoning Administrator or the DANR and inspection reveals the operation is in violation of county, state, or federal regulations; and/or (6) an operation has been non-operational for forty-eight (48) consecutive months.

B. State General Water Pollution Control Permit and State-Approved Construction Plans.

A State General Water Pollution Control Permit is required if any of the following situations are met:

1. A general permit is required by the South Dakota Department of Agriculture and Natural Resources (DANR).
2. A general permit is required by McCook County as a requirement or condition of approval.
3. Where the site is located over or within a sensitive environmental area including, but not limited to, a mapped shallow aquifer, wetland, floodplain, or floodway.

Where a state general permit is required, copies of all state-approved construction plans shall be filed with the County. The operator shall maintain all records required by the DANR including annual renewal forms. Copies shall be provided to the County upon request.

C. Required Information for All CAFOs.

Any person who owns, operates, or proposes to own, operate, or expand a CAFO shall provide the following information to the Planning and Zoning Administrator:

1. Name(s), address(es), and telephone number(s) of each owner, manager, management company, or similar entity.
2. Legal description of the operation site.
3. Site plan showing all existing and proposed buildings and structures.
4. The number and species of animals to be housed.
5. Information on the site's ability to meet designated setback requirements, including map(s) showing measured distances.
6. Information on the types of soils at the site, and whether there are any shallow aquifers, designated wellhead protection areas, and 100-year floodplain designations

at or within one half (1/2) mile of the proposed site.

7. Test soil boring locations and results shall be provided if the site is located over or within a sensitive environmental area identified above.
8. A location map drawn to scale or other documentation identifying all state, county, or township "haul roads" that will be utilized during construction and operation of the CAFO. Where practical, existing all-weather roadways shall be used. Additionally, the applicant(s) shall, prior to receiving a conditional use permit or any building permit (whichever occurs first), enter into negotiated written road haul/maintenance agreements with the appropriate state, county, or township having jurisdiction over the identified haul roads. For county and township roads, the owner/developer of the site shall accept responsibility for all additional costs resulting from its use of the roads. For purposes of this section, additional costs shall include all work and material costs incurred over and above the average cost of maintaining that specific type of road.

Failure to correct or supplement any required information within thirty (30) days of making any material change thereto shall constitute a violation of this Ordinance and possible revocation of the conditional use permit (if applicable).

D. Additional Information Required for Class A CAFOs.

1. General information regarding the species and habitats that could potentially be impacted by development on the site. This shall include information not just about the site itself, but also about neighboring properties, because development next to sensitive habitats can greatly impact species.

E. Classification of CAFOs.

For purposes of these regulations, CAFOs are divided into Class A, Class B, and Class C Operations.

CAFO	
Class A	1,000 AU or more
Class B	200 to 999 AU
Class C	50 to 199 AU

F. Animal Unit Computation.

Animal units (AU) are computed by multiplying the number of head of a particular animal by the corresponding animal unit ratio. For the purposes of this Ordinance, animal unit ratios are as follows:

ANIMAL TYPE	ANIMAL UNIT RATIO (AU/HEAD)
Feeder or Slaughter Cattle	1.0

Cow/Calf Pair	1.2
Mature Dairy Cattle	1.4
Heifer	0.7
Dairy Calf	0.2
Finisher Swine (Over 300 lbs.)	0.4
Finisher Swine (55 to 300 lbs.)	0.3
Nursery Swine (less than 55 lbs.)	0.1
Farrow-to-Finish (sows)	3.7
Swine Production Unit (sows breeding, gestating & farrowing)	0.47
Horses	2.0
Sheep and Lamb	0.1
Turkeys (over 5 lbs.)	0.018
Turkeys (under 5 lbs.)	0.005
Laying Hens and Broilers (continuous overflow watering in facility)	0.033
Chicken over 5 lbs. (dry manure system)	0.005
Chicken under 5 lbs. (dry manure system)	0.003
Ducks	0.2

Other animal species ratios which are not listed will be determined based on dividing the average weight of the animal species in pounds by one-thousand (1,000) pounds.

G. Required Minimum Setbacks and Separation Distances for CAFOs; Exemption from Setback and Separation Distances Under Certain Limited Circumstances.

1. No CAFO shall be permitted that is closer than the separation distances set forth below, unless that operation qualifies under either exception contained within Article 11.08(G)(2). These setbacks are minimum standards and may be increased during the conditional use permit issuance process for reasons including, but not limited to, adjoining or nearby uses within the same or different districts, prevailing wind direction, or other unique reasons. Setbacks shall be measured from the outermost point of the CAFO to the structure/use as identified below. For purposes of this measurement, the CAFO includes everything located on the lot that either houses the animals and/or is utilized for manure storage, including lagoons.

The required minimum setbacks and separation distances for CAFOs shall be as follows:

	<u>Class A</u>	<u>Class B</u>	<u>Class C</u>
Dwellings, Churches, Schools, Businesses, Designated State or County Park	2,640 feet (1/2 Mile) plus 220 ft. per each additional 1,000 animal units over 1,000 animal units	2,640 feet (1/2 Mile)	2,640 feet (1/2 Mile)

Incorporated Municipalities	5,280 feet (1 Mile) plus 440 ft. per each additional 1,000 animal units over 1,000 animal units	5,280 feet (1 Mile)	5,280 feet (1 Mile)
Existing Swine Feeding Operation over 240 AU - (Only applies to new swine feeding operations)	5,280 feet (1 Mile)	5,280 feet (1 Mile)	5,280 feet (1 Mile)
Public Water Supplies	1,000 feet	1,000 feet	1,000 feet
Private Shallow Wells (other than owner's or operator's)	250 feet	250 feet	250 feet
Private Shallow Wells (owner's or operator's)	150 feet	150 feet	150 feet
Lake, Rivers and Streams classified as Fisheries	500 feet	300 feet	300 feet
Federal, State, county, and Township Road ROW (Confinement)	150 feet	150 feet	150 feet
Federal, State, County, and Township Road ROW (Open Lot)	50 feet	50 feet	50 feet
Designated 100 Year Floodplain	Prohibited	Prohibited	Prohibited

2. If an applicant wishes to locate either a Class A, Class B, or Class C CAFO closer than the separation distances set forth in these regulations, the applicant may request an exception to the separation distance from the Board of Adjustment. The Board of Adjustment, at its discretion, may allow an exception to the separation distance when the applicant provides one of the following:

- A signed waiver from each landowner closer than the minimum separation distance. Each waiver shall be filed with the McCook County Register of Deeds and shall run with the land.
- Documentation showing that either new technology, management practices, pit additives, topographic features, soil conditions, or other factors substantiate a reduction in the minimum separation distances.

H. Manure Application Setbacks.

The following manure application setbacks apply to all classes of CAFOs:

COUNTY MANURE APPLICATION SETBACKS

CATEGORY	SURFACE OR IRRIGATION APPLIED	INCORPORATED OR INJECTED
Lakes, Rivers, and Streams Classified as Fisheries	300 feet (lakes) 50 feet (river & stream)	100 feet (lake) 50 feet (river & stream)
Stream & Lakes classified as Drinking Water supplies	1,000 feet	300 feet
Public Wells	1,000 feet	1,000 feet
Private Wells	250 feet	250 feet
Municipality	1,000 feet	1,000 feet

I. Conditional Use Permit Public Hearing.

In addition to the requirements of Chapter 17.01(D), the applicant shall give notice by certified mail to all property owners within one (1) mile of the boundary of the property upon which the operation is proposed to be located. The notice shall include at a minimum the name of the proposed operation, the name and contact information for a person responsible for addressing questions related to the proposed operation, a statement that the recipient(s) own property within one (1) mile of the proposed operation, a general geographic description of the site, the time and place of the public hearing, and a statement that all materials submitted by the applicant are available for public inspection prior to the public hearing at the McCook County Planning & Zoning Office. Notices shall be postmarked not less than ten (10) days prior to the date of the public hearing. The applicant is responsible for meeting all requirements and shall provide documentation to the Planning & Zoning Administrator that these public notice requirements have been satisfied at least four (4) business days prior to the date of the public hearing. Failure to provide all required notices shall result in the cancellation of the public hearing. Failure of the recipient of the certified letter to accept delivery does not invalidate service.

J. Nutrient Management Plan.

All CAFOs shall have a Nutrient Management Plan (NMP) reviewed and approved by the DANR prior to land application of any manure. The NMP shall be prepared at the applicant's expense by an engineer, licensed in the State of South Dakota, or other qualified professional, be in writing, be approved as an adjunct to the County building permit. Additionally, an engineer that is licensed in the State of South Dakota shall approve and sign off on all confinement building and manure storage facility plans associated with the CAFO. All confinement buildings and manure storage facilities shall be engineered to DANR standards. The following minimum requirements shall apply:

1. Due to crop rotation, site changes, and other operational changes, the NMP shall be updated at least annually to reflect the current operation and crops grown on all

application sites. The NMP shall contain the legal description of all tillable agricultural lands in McCook County where manure application is to be conducted.

2. Unless otherwise required by state or federal law, all manure shall be collected in self-contained, enclosed pits, and transport equipment conveying it to the disposal site shall be fully enclosed and structurally sound to prevent leakage or spillage.
3. All manure produced from swine facilities shall be knifed or injected. Manure produced by any other animal facility may be either surface/irrigation applied or incorporated/injected.
4. Written agreements with all owners of manure application sites (other than those of the facility owner) for the use of such land shall accompany the NMP. Each agreement shall include the provision that no such land shall be withdrawn from use without written notice being provided to the Planning and Zoning Administrator within thirty (30) days.
5. Manure application at all sites shall meet the separation distance requirements specified in Article 11.08(H).

K. Additional Standards or Considerations to be Utilized by the Board of Adjustment for Conditional Use Permits.

In addition to the requirements outlined in Article 17.01(H), the decision of the Zoning Board of Adjustment whether to grant a Conditional Use Permit shall be based on the following:

1. **Fly and Odor Management Plan.** The Board of Adjustment shall review the need for fly and odor control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The Applicant shall provide a Pest, Fly, and Odor Control Plan that provides sufficient information for the Board of Adjustment to determine whether adequate safeguards exist to protect the public from flies and odors at both the facility itself, any habitable buildings and structures located within one (1) mile or the required minimum setback distance from the proposed facility (whichever is greater), and all waste disposal sites. The plan shall include monitoring of odors at the required locations through accepted scientific means, including dynamic olfactometry, dispersion modelling, or a combination thereof as required by the Board of Adjustment. Additionally, the Pest, Fly, and Odor Control Plan shall contain sufficient information to assist the Board of Adjustment with determining reasonable conditions to reduce fly and odor problems at the facility, neighboring properties, and all manure disposal sites.

2. **Consideration of Past Violations.** When considering an Class A CAFO conditional use permit application, the Board of Adjustment shall take into consideration any current and past violations of any local, State, and/or Federal permit or law relating to a CAFO in which the applicant(s) has an interest. Evidence of any such violation may be presented through documented evidence prepared by any public entity designed to enforce any local, State, or Federal law, or by any other form of evidence that would typically be deemed admissible in a court of law in the State of South Dakota.
3. **Additional Standards Allowed.** The Board of Adjustment may impose, in addition to the standards and requirements set forth herein, any additional conditions which are reasonable and necessary to protect the health, safety, and general welfare of the public.

Failure to correct or supplement any required information within thirty (30) days of making any material change thereto shall constitute a violation of this Ordinance and possible revocation of the conditional use permit (if applicable).

L. **Liability Insurance.**

Applicant is required to obtain and maintain liability insurance of an adequate amount determined by a licensed insurance professional. This insurance is intended to provide funds to ensure proper clean-up of any environmental damage caused by the operation of the CAFO and/or ensure proper closure of the operation. Applicant shall provide the County with Proof of Insurance when insurance is obtained or within thirty (30) days after construction of the operation is complete, whichever is later. The Planning and Zoning Administrator shall be notified by the owner/operator of the site if insurance is not maintained. Failure to correct or supplement this information within thirty (30) days of materially changing or discontinuing any required insurance shall constitute a violation of this Ordinance and possible revocation of the conditional use permit (if applicable).

(Amended: Ord. No. 2020-06, 09-22-20; Ord. No. 2024-01, 01-23-24; Ord. No. 2024-02, 05-28-24)

11.09 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities

- A. **Intent and Purpose.** The unique and diverse landscapes of McCook County are among its most valuable assets. Destroying these assets risks undermining the very characteristics responsible for our economic vitality and future potential. Protecting these assets will require that location and design of tower facilities be sensitive to, and in scale and harmony with, the aesthetics of McCook County. This section will provide standards for the proper placement and design of tower facilities in order to ensure their compatibility with

surrounding aesthetics and development.

The purpose of this section is to provide predictable and balanced standards for the siting and screening of tower facilities on both public and private property within the jurisdiction of McCook County. These standards will protect the health, safety and general welfare of persons in the area(s) surrounding such tower facilities from possible adverse aesthetics related to the placement, construction or modification of such tower facilities.

Leasing of public buildings, publicly owned structures, and/or public rights-of-way for the purposes of locating wireless telecommunication services facilities and/or equipment is encouraged. In cases where a facility is proposed on County property, specific locations and compensation to the County shall be negotiated in lease agreements between the County and the provider on a case-by-case basis, and would be subject to all of the review criteria contained in this section. Such agreements would not provide exclusive arrangements that could tie up access to the negotiated site(s) or limit competition, and must allow for the possibility of "co-locating" (sharing of facilities) with other providers.

Regulations regarding development of telecommunications towers, antenna support structures and wireless communications facilities are intended to encourage development of a competitive wireless communications market place while protecting the health, safety and welfare of the public and maintaining the aesthetic integrity of the County. The regulations cover placement, construction and modification of telecommunications towers, antenna support structures and wireless communications facilities. The intent of this section includes the following:

1. To regulate the location of telecommunication towers, antenna support structures and wireless communication facilities.
2. To protect residential areas and land uses from potential adverse impact of telecommunications towers, antenna support structures and wireless communication facilities.
3. To minimize adverse visual impact of tower sites through design, siting, landscaping and innovate camouflaging techniques.
4. To promote shared use and co-location of sites.
5. To insure telecommunications towers, antenna support structures and wireless communication facilities are compatible with surrounding land uses.
6. To facilitate the provision of services to residents and businesses in an orderly fashion.
7. To promote the location of telecommunications towers, antenna support structures and wireless communication facilities in non-residential areas.

8. To avoid potential damage to property caused by telecommunications towers, antenna support structures and wireless communication facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound. Specifically, the Telecommunication Act of 1996 affirms the local government's right to control the siting, construction and modification of cellular and other wireless telecommunication facilities. The permitting process of this Chapter will not discriminate among providers of functionally equivalent services and will not prohibit the provisions of personal wireless services.

B. Applicability. It shall be unlawful for any person, firm, or corporation to erect, construct in place, or place any tower facility without first receiving a permit(s) from the McCook County Zoning Administrator. Nor may any person, firm, or corporation alter, modify, transform, add to or change in any way an existing tower facility without first receiving a permit(s) from the McCook County Zoning Administrator.

C. Co-Location Requirements for New Tower Facilities. New tower facilities shall be designed and constructed to permit the future co-location of other commercial wireless telecommunications services, according to the following criteria:

<u>Height of Structure</u>	<u>Additional Users Facility Must Accommodate</u>
Less than 100'	No Co-location required
Between 100' and 130'	1 additional user accommodated
Between 130' and 160'	2 additional users accommodated
161 ' and greater	3 additional users accommodated

In satisfying co-location requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate co-location user's equipment. Nothing in these regulations shall prevent the owner of the tower from requiring remuneration from a co-location user, provided that such remuneration is rate reasonable. The owner of the tower may also establish reasonable technical requirements for co-location to protect the owner's investment and guarantee effective telecommunication service. The owner of the tower shall have the authority to review all plans for co-location uses and require reasonable modifications for such plans to ensure safe and efficient operations of the communication services and protect the owner's investment.

D. General Standards.

Setback: There shall be a minimum setback of 600' from the tower base to any existing residence or proposed residential development area based on the land use plan except the farmstead residence on the proposed site. Building structures must meet County setback requirements. Towers shall be no more than 200' in height. Towers exceeding 200' may be considered, if FCC and FAA approval is received.

Fencing: The tower facility shall be protected by a security fence from six (6) feet to eight (8) feet in height around the perimeter of the site.

Signage: The owner's name, telephone number and site ID number shall be posted on the gate of a perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except applicable warning and equipment information as required by the manufacturer or by federal, state or local authorities.

Lighting: The light source for any necessary security lighting shall feature down-directional, sharp cut-off luminaries that insure there is no spillage of illumination off the parcel or easement boundary.

Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstance.

All sites and equipment shall be maintained in good condition, order and repair so they shall not endanger the life or property of any person.

E. Application Requirements

1. McCook County Zoning Administrator may contract with an independent technical expert to review technical materials submitted by the applicant, and/or to determine if additional information is necessary. The tower facility applicant shall pay the cost of such review and/or independent analysis.
2. Name and address of the tower facility owner, record landowner of parcel and any duly appointed agents of the parties.
3. A visual study depicting where within a one (1) mile radius any portion of the proposed tower facility will be visible.
4. Site plan(s) drawn to a scale of one (1) inch equals twenty (20) feet or less, specifying the location of the tower facility, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting, landscaped areas and all adjacent land uses within two hundred forty (240) feet of the base.
5. Elevation drawings of "before" and "after" simulating and specifying ground levels, the location and height of antenna(s), support structures, equipment buildings and/or other accessory uses, fences and signs of the tower facility.
6. Map showing the search radius for the antenna location and the proposed broadcast coverage obtained by the tower facility, including a narrative describing a search radius of not less than one (1) mile for the requested site, clearly explaining why the site was selected, identifying and locating landing and takeoff areas of aircraft within the search radius, locating all existing tower facilities, and identifying all other structures that may be potential co-location sites.

7. Description of the tower facility design. (e.g. monopole)
8. An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to obtain permission for installation at a co-location facility.
9. Written, technical evidence from an engineer(s) that the proposed tower or communication facility cannot be co-located to other tower sites.
10. Written, technical evidence that an engineer registered in the State of South Dakota has provided the design for this specific tower facility and site ensuring the proper standards for design.

F. Other Requirements. The County may require additional information from the applicant and impose additional standards, regulations or requirements as deemed necessary to protect the public health, safety and welfare. If the Planning Commission considers the information provided inadequate or if the applicant fails to supply required information, the Planning Commission may deny the application on this basis. Other requirements include, but are not limited to, the following:

1. A letter that requires the tower facility owner and successors to allow the shared use of the tower facility if an additional user(s) agrees in writing to meet reasonable industry terms and conditions for shared use.
2. A copy of the FAA determination or a signed statement that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.
3. A copy of the FCC's license or a signed statement from the proposed operator of the tower facility attesting to the fact that the tower facility complies with current FCC regulations, including compliance with the regulations of the FCC with regard to maximum radio frequency and electromagnetic frequency emissions, or a statement from the applicant that no such compliance is necessary, and the reasons therefore.
4. Copy of a certificate of insurance for liability and workers compensation insurance that requires notification to McCook County Zoning Administrator prior to cancellation will be furnished.
5. Documentation demonstrating that the tower facility has been designed to conform to applicable state structural building standards and accepted electrical engineering methods and practices as specified in applicable provisions of the National Electrical Code and a sworn statement that following completion of construction the tower facility will be inspected at the applicant's expense by a qualified engineer licensed by the State of South Dakota.

6. The applicant shall submit proof, in the form of a signed affidavit, demonstrating a good faith effort to lease or purchase space on an adjacent existing tower facility. The affidavit shall state why space is not available, such as:
 - a. The planned tower facility would exceed the structural capacity of the tower facility and the structural capacity cannot reasonably be increased;
 - b. The planned tower facility would cause interference with the usability of other existing or planned equipment at the tower facility; and/or
 - c. An existing tower facility cannot accommodate the planned antenna at a height necessary to function reasonably.

G. Exemptions. Towers exempt from the permitting process include the following:

1. Residential use no more than 10' above average existing tree canopy or roof line.
2. Normal maintenance to existing tower facilities.

H. Annual Notification - Failure to Comply Deemed Abandonment. The owner of the facility shall file an annual notification in writing to the Zoning Administrator as to the current operation of the tower facility. This annual report due on or before January 15th of each year shall include, but not be limited to, the following information:

1. Tower usage - type of usage, tower in service or out of service.
2. Documentation of antenna - number of co-locates.
3. Certification by owner of compliance with this section - signage, landscaping, lighting.
4. Annual maintenance performed.
5. Any changes from the original conditional use permit.

Failure to comply with this section will deem the tower facility abandoned.

I. Abandonment. Tower facilities that are not in use for one hundred eighty (180) consecutive days shall be considered abandoned and shall be removed by the owner within one hundred eighty (180) days. The applicant must furnish a copy of the relevant portion of an executed lease, which identifies the applicant's obligation to remove abandoned or unused towers, concrete footings, anchors, supporting equipment and antennae prior to the issuance of a conditional use permit to erect a tower.

Removal includes the complete tower facility including related infrastructures, footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and restoration to pre-existing vegetative cover. Failure to do so shall be just cause for

McCook County to seek legal avenues that will remove the tower facility and restore the site.

The County shall require financial assurances including bonds in an amount sufficient to cover costs of removal of towers, buildings, concrete footings, anchors, supporting equipment, and antennae. Said financial assurances shall be submitted with the conditional use permit application. An engineer's cost estimate is to assist the County in determining the amount of financial assurance necessary to cover removal costs of said towers, buildings, concrete footings, anchors, supporting equipment and antennae.

In the event any towers, buildings, concrete footings, anchors, supporting equipment and antennae have not been removed within one hundred eighty (180) days written notice by the County after abandonment, the County shall have the right to remove the towers, buildings, concrete footings, anchors, supporting equipment and antennae and assess the property.

- J. Existing Tower Facilities. Existing tower facilities may continue in use and perform routine maintenance for the purpose now used and may not alter, convert, modify, transform, vary, add to or change in any way the form without complying with Section 11.09. Existing tower facilities shall be considered for the co-location of other antenna(s). The owner of an existing tower facility shall file an annual notification in writing to the McCook County Zoning Administrator as to the continuing operation of every tower facility constructed (see subsection H- Annual Notification). Failure to do so shall be determined to mean that the tower facility is no longer in use and considered abandoned.
- K. Maintenance. All tower facilities shall be maintained in a safe and clean manner. The tower facility owner shall be responsible for maintaining a graffiti, debris and litter free site. The landscape plan shall be maintained for the life of the tower facility. Trimming the tops of trees on site shall be allowed, only to maintain the average height of the canopy used to establish tower facility height. All tower facilities shall be subject to periodic inspection to ensure continuing compliance with all conditions of the application submitted and approval requirements.

Telecommunications towers, antenna support structures and wireless communications facilities shall be maintained in compliance with Electronic Industries Association/ Telecommunications Industries Associations Standards (latest revision), all applicable laws and so as not to interfere with the use of other property.

Upon the County's determination that a tower site is a hazard to public safety, the owner shall be required to perform an inspection by a registered professional engineer and make all recommended corrections at the owner's expense.

- L. Time Limit on Tower Facility Construction. Construction of an approved tower facility must be completed within two years following the date of the approval. Landscaping must be installed within the first growing season immediately following construction.

11.10 Site-Built Single-Family and Multi-Family Dwelling Standards

- A. The pitch of the main roof shall not be less than one foot of rise for each four feet of horizontal run. The roof pitch shall not be less than a 3 in 12 slope.
- B. The minimum width of the main body of the site-built dwelling shall not be less than 20 feet, as measured across the narrowest portion.
- C. A wood or masonry foundation shall form a complete enclosure under the exterior walls.

(Amended: Ord. No. 2020-04, 09-22-20)

11.11 Road Maintenance Agreements

Whenever a subdivision contains new roads, a road maintenance agreement shall be filed with the plat. The agreement shall establish an association comprised of property owners within the subdivision who are responsible for the maintenance and future improvement of roads and the method for assessment of costs. Zoning and building permits shall not be issued where a road maintenance agreement is not on file with the Register of Deeds.

11.12 Home Occupations

It is deemed appropriate to allow limited nonresidential activities to operate in conjunction with a residence in those zoning districts where residential dwellings are permitted, provided the regulations protect the character and integrity of the unincorporated area.

The objective of these regulations is to allow limited commercial type activities associated with a residence only to the extent that the activity is clearly subordinate to the residential or agricultural use of the property. Uses such as motor vehicle repair or body shop, motor vehicle sales, recycling center, retail business or similar type uses shall not be considered a home occupation. Due to the diverse pattern of development in the rural area, the regulations provide for both minor and major home occupations.

A. Minor Home Occupations

In all zoning districts permitting residential dwellings, minor home occupations in compliance with each of the following standards are permitted as accessory uses. Due to their incidental and residential nature, minor home occupations are relatively common accessory uses which are not easily detectable and are not reasonable or desirable to regulate through a conditional use permit.

1. The occupation shall be conducted entirely within a dwelling and clearly incidental to the use of the structure for residential purposes.
2. There shall be no change in the outside appearance of the dwelling or any visible evidence of the conduct of the occupation.
3. Only residents of the dwelling shall be employed by or participate in the occupation.
4. The storage of equipment, vehicles, or supplies associated with the occupation shall

not occur outside the dwelling. Accessory buildings or structures shall not be used for storage.

5. There shall be no display of products visible in any manner when viewed from outside the dwelling.
6. One non-illuminated sign, not exceeding thirty-two (32) square feet in area in the A-1 Agricultural District, and four (4) square feet, non-illuminated in the RR Rural Residential District and LR Lake Residential District may be allowed.
7. Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.
8. No equipment or process shall be used in the occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property.
9. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

B. Major Home Occupation

It is recognized that home occupations which exceed the requirements of Section 11.12 (A) may be appropriate in a low density residential setting or if associated with an agricultural use. For the purpose of this ordinance, such uses are classified as either a Class 1 or Class 2 major home occupation, and shall be evaluated giving consideration to the following criteria:

1. Class 1:
 - a. The occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.
 - b. The occupation shall be operated by a member of the family residing in the dwelling.
 - c. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
 - d. In addition to the dwelling, up to 2,000 square feet of accessory building space may be used for the occupation.
 - e. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. These off the property noise standards shall not apply to public railroad rights-of-way.
 - f. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
 - g. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
 - h. A non-illuminated nameplate not exceeding 32 square feet in the A-1 Agricultural District, and four (4) square feet in the RR Rural Residential District and LR Lake Residential District may be placed on the accessory building. Additionally, one non-illuminated sign not exceeding four (4) square feet in area may be located along the driveway for the occupation. No off-

- premise signs shall be used.
- i. The occupation shall not generate more than ten (10) visits per day from clients or customers average over a period of seven (7) consecutive days.
- j. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

2. Class 2:

- a. The occupation shall be conducted in a dwelling or agricultural building accessory to the dwelling which comprise the headquarters for the agricultural use.
- b. The occupation shall be clearly secondary to the principal use of the land for agricultural purposes.
- c. The owner or occupant of the dwelling shall be engaged in the occupation.
- d. The occupation shall have no more than five (5) employees, including residents of the property.
- e. The occupation shall be conducted within a completely enclosed building typical of farm buildings. Such building shall be located behind the dwelling, or shall be located at least 200 feet from the nearest road right-of-way.
- f. All materials, supplies and products associated with the occupation shall be stored within a building or if open storage of materials or equipment is required, it shall be concealed with appropriate screening or landscaping.
- g. The use shall cease operating when the property is no longer in conformance with Section 11.12(B)(2)(a).

11.13 Manufactured Home Requirements

- A. Manufactured Home Requirements

- 1. Manufactured homes can be of single or multiple sections.
- 2. Provided with skirting of material which is not highly combustible and installed around the perimeter of the mobile home from the bottom of the manufactured home to the ground.
- 3. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design.
- 4. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards.
- 5. At least 950 square feet of occupied space when erected on site.

11.14 Bed and Breakfast Establishments

- A. Bed and Breakfast's shall be limited to a residential structure with an overall minimum of 1,800 square feet of floor area.

- B. They shall be in compliance with applicable state laws including South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
- C. Such uses shall be an incidental use with an owner-occupied principal dwelling structure provided that not less than four (4) bedrooms in such dwelling structure shall be used for such purpose.
- D. Off-street parking requirements shall be one space per guest room and shall be in addition to parking requirements for the residence.

11.15 Wind Energy Conversion Systems

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

- A. Intent. The intent of regulations for Wind Energy Conversion Systems is to encourage the development of alternative sources of energy while protecting the health, safety and welfare of the public.
- B. Accessory WECS. The applicant shall provide to the Zoning Administrator documentation that the tower structure for the system has received a professional structural engineer's certification.
 - 1. Height.
 - a. The lowest portion of the blade shall be at least thirty (30) feet above the ground.
 - b. WECS are exempt from the maximum height requirements of this Ordinance.
 - 2. Setbacks.
 - a. The WECS shall be located in the rear yard only and shall be set back 1.25 times the total WECS height from the property lines.
 - b. Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted to the Planning Commission for their approval.
 - 3. Illumination and Security.
 - a. Illumination and markings shall be limited to the requirements of the FAA. There shall be no lights on the tower other than what is required by the FAA. FAA approved red lights shall be used from dusk till dawn. This restriction

shall not apply to infrared heating devices used to protect the monitoring equipment.

- b. Access to the WECS shall be restricted by one or more of the following means:
 - i. Tower-climbing apparatus located no closer than twelve (12) feet the ground; or
 - ii. A locking anti-climb device installed on the tower; or
 - iii. Enclosure of the tower by a fence at least six (6) feet high with locking portals.
4. Noise. The noise level of the WECS shall not exceed 50 dB(A) as measured at any property line or the WECS shall not create noise beyond the lot containing the WECS which exceeds 60 dB(A) as measured at the nearest habitable dwelling.
5. Signs. One sign, not to exceed four (4) square feet, shall be posted at the base of the tower and display suitable warning of danger to unauthorized persons, the system's manufacturer, and emergency shut-down procedures. No other signage shall be allowed.
6. Electromagnetic interference. If a WECS is installed in any location along or within the major access of an existing microwave communications link, the person desiring to install the WECS shall be required to provide a letter from the business whose link they are within or adjacent to stating that the business whose link is affected would have no objection to the installation of the WECS.
7. Air space. A WECS shall be located or installed in compliance with the guidelines of the Federal Aviation Administration Regulations with regard to Airport Approach Zones and clearance around VOR stations.
8. Interconnect. The WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company.

C. Commercial WECS. Commercial WECS shall be permitted only on lands zoned AG Agricultural, C Commercial, LI or HI Industrial, or FC Floodplain/Conservation.

1. Equipment Design.

Tower

The tower(s) shall be of singular tubular steel construction.

Height

- a. The lowest portion of the blade shall be at least thirty (30) feet above the ground and thirty (30) feet above the highest existing structure within a radius of two hundred fifty (250) feet.

- b. WECS are exempt from the maximum height requirements of this Ordinance.

Distribution Lines/Power Poles

All on-site electrical wires associated with the WECS shall be installed underground and maintained in conformance with the National Electric Safety Code or other applicable codes.

2. Setbacks.

- a. WECS shall be set back 2 times the total WECS height from any exterior property line.
- b. WECS shall be set back 1.25 times the total WECS height from the right-of-way line of any public road or highway.
- c. WECS shall be set back 3 times the total WECS height from any habitable structure.

3. Illumination and Security.

- a. Illumination and markings shall be limited to the requirements of the FAA. There shall be no lights on the tower other than what is required by the FAA. FAA approved red lights shall be used from dusk till dawn. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.
- b. Each turbine shall be equipped with a braking system and blade pitch control.
- c. All guy wires shall be distinctly marked.
- d. Signs warning of the electrical and other hazards associated with the WECS shall be posted at the base of each tower.
- e. Anti-climbing devices shall be installed on each tower.

4. Noise.

The noise level of the WECS shall not exceed 65 dB(A) as measured at any property line.

5. Signs.

- a. No advertising signs or logos shall be permitted on the WECS.
- b. One (1) project identification sign, not to exceed twenty (25) square feet, shall be allowed.

6. Inoperable or Unsafe WECS/Site Reclamation.

- a. Unsafe commercial WECS, inoperable commercial WECS, and commercial WECS for which the permit has expired shall be removed by the owner. All safety hazards created by the installment and operation of the WECS shall be eliminated and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security may be required to cover the cost of removal and site restoration.
- b. A Commercial WECS shall be deemed inoperable if it has not generated power for 12 consecutive months.

7. Roads.

- a. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WECS project and shall notify the governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the WECS. Where practical all-weather roads shall be used to deliver concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.

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

- b. Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. When access roads are constructed across streams and drainage ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.
- c. Private Roads. The permittee shall promptly repair private roads, easements or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

- d. Dust Control. The permittees shall utilize all reasonable measures and practices of construction to control dust.
- 8. Soil Erosion and Sediment Control Plan. The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the McCook County Zoning Administrator. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.
- 9. Decommissioning/Restoration/Abandonment.
 - a. Decommission Plan. Within 120 days of completion of construction, the permittees shall submit to the McCook County Zoning Administrator a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries out its obligation to provide the resources necessary to fulfill these requirements. The McCook County Zoning Administrator may at any time request the permittees to file a report with the McCook County Zoning Administrator describing how the permittees are fulfilling this obligation.
 - b. Site Restoration. Upon expiration of this permit, or upon earlier termination of operation of the WECS, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet. To the extent possible, the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the McCook County Zoning Administrator and shall show the locations of all such foundations. All such agreements between permittees and the affected landowner shall be submitted to the McCook County Zoning Administrator prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen months after expiration.

- c. Abandoned Turbines. The permittee shall advise the McCook County Zoning Administrator of any turbines that are abandoned prior to termination of operation of the WECS. The McCook County Zoning Administrator may require the permittees to decommission any abandoned turbine.
- d. Providing Surety. The Zoning Administrator shall decide if it is prudent to include provisions that ensure financial resources will be available for decommissioning. This may include establishing an escrow account into which the project developer/owner will deposit funds on a regular basis over the life of the project. The unit of government shall then have access to the escrow account for the explicit purpose of decommission. Financial provisions shall not be so onerous as to make WECS projects unfeasible.

10. Application Contents. Every application for a commercial WECS permit shall include the following information:

- a. Name and address of the applicant.
- b. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application.
- c. A plot and development plan drawn in sufficient detail to clearly describe the following:
 - i. Physical dimensions and locations of the property, existing structures, and proposed structures.
 - ii. Location of electrical lines and facilities.
 - iii. Existing topography.
 - iv. Proposed grading and removal of natural vegetation.
 - v. Wind characteristics and dominant wind direction is the direction from which 50 percent or more of the energy contained in the wind flows.
 - vi. Setbacks.
- vii. Ingress and egress identifying the following factors:
 - 1. Location and distance to the nearest publicly maintained road;
 - 2. A description of the access route from the nearest publicly maintained road to include:

- a. Road surface material stating the type and amount of surface cover;
 - b. Width and length of access route;
 - c. Dust control procedures;
 - d. A road maintenance schedule or program;
 - e. Utilization of the property under the requested permit.
- d. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection.
- e. Specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each WECS model, tower and electrical transmission equipment.
- f. A location map to scale of all dwellings within $\frac{1}{2}$ mile of the boundary of the property upon which the WECS are to be located.
- g. If the Zoning Administrator determines it is necessary, the application shall be accompanied by a photograph or detailed drawing of each model of WECS including the tower and foundation; and one or more detailed computer or photographic simulation drawing showing the site fully developed with all proposed WECS and accessory structures.
- h. An application including any WECS which is located within a 100-year flood plain area, as such flood hazard areas are shown on the maps designated by FEMA, shall be accompanied by a Flood Plain Development Permit.
- i. An application including any WECS which is located within two miles of any microwave communications link shall be accompanied by a copy of written notification to the operator of the link.
- j. The types and quantities of wastes, fluids, or pollutants that are proposed to be handled, processed, treated, stored, disposed of, emitted, or discharged at each vessel containing fluid and for the entire project.
- k. Project schedule.

1. Such additional information as shall be required by the Zoning Administrator.

D. Application Review.

1. Conditional Use Permit. A conditional use permit is required for an Accessory WECS and a Commercial WECS.
2. Technical Issues and Expert Review. Wind Energy Conversion Systems may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Zoning Administrator may require the applicant to pay reasonable costs of a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal will be in the sole discretion of the County.
3. Building Permit. Conditional Use Permit approval of Wind Energy Conversion Systems is separate from the building permit process. Building permits for the construction of facilities can not be issued until the facility is approved through the conditional use permit process.

11.16 501(d) Non-Profit Religious and Apostolic Associations

The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator.

11.17 Mineral Exploration and Development

The regulations regarding mineral exploration and development shall be as follows:

- A. Exploration for minerals may be approved by Conditional Use only as long as the following minimum requirements are met:
 1. The applicant shall provide:
 - a. A description of the mineral or minerals which are the subject of the exploration.
 - b. Maps showing the general area within which the exploration operation will be conducted.
 - c. A detailed description of the regional environmental conditions, to include surface land use and vegetation, as well as a detailed description of the area's geologic formations and hydrology from the best available scientific sources.
 - d. Maps indicating the location of the drill sites to the nearest section of land, a technical description of the exploration process, the types of equipment to be used, and the estimated time table for each phase of work and for final completion of the program.
 - e. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed exploration.
 - f. A description of the proposed plan to address the identified environmental

impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the areas ecological balance and any other related hazard to public health and safety.

g. A plan for reclamation of the land to its original condition after exploration is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources and the proposed future use of the lands explored and adjacent lands. The reclamation plans include:

- reclamation schedule
- methods of plugging drill holes
- methods of severing and returning topsoil and subsoil
- methods of grading, backfilling and contouring of exploration sites and access roads
- methods of waste management and disposal, including liquid and solid wastes
- methods of revegetation

h. A surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of the affected ground and surface waters. The amount shall be set by the County Commission based on an estimate of the cost of reclamation and decontamination. The bond shall be released five (5) years after exploration has ceased unless the Commissioners find for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the commissioners, if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.

2. The applicant shall identify specific phases when monitoring and inspection of the exploration activities shall be conducted by the county, state, federal or independent personnel to assure compliance with all applicable rules and regulations. If a conditional use permit is granted, the permit shall identify such inspection agency and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Commissioners.

3. A conditional use shall be issued only after all of the conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of exploration activities.

B. Mineral extraction and/or mining may be approved by Conditional Use only as long as the following minimum requirements are met:

1. The applicant shall provide:

- a. A description of the mineral or minerals to be mined or milled.

- b. Maps showing the area within which the mining or milling operations will be conducted.
- c. A description of the surface land use and vegetation, as well as a description of the nature and depth of the top soil and subsoil.
- d. An environmental assessment which establishes base line conditions for radioactive intoxicant materials and air, ground and surface waters, soils, vegetation and animals.
- e. A description of the overburden, mineral seams, and other geologic formations, their conductivities and hydraulic gradients, known to exist above the deepest projected depth of the mining operation.
- f. A description of the hydrology to the deepest projected depth of the mining operation, including mapping of the depth, water table level, extent, and flow characteristics of ground water and aquifers for the hydrologic regime of the ground water and drainage basins affected by the mining or milling operation.
- g. A technical description of the mining or milling, types of equipment to be used, detailed site plan of all anticipated construction, an estimated timetable for each phase of work and for final completion of the program, a statement of source, quality, and quantity of water to be used in the mining or milling operations, as well as the chemical and radioactive characteristics of all mined or milled products, waste products, and emissions to the environment.
- h. A description of the major environmental impacts upon air quality, water quality and quantity, and the land use modification presented by the mining or milling operations.
- i. A description of the proposed plan to address the identified environmental impacts to include:
 - methods of separating the topsoil, subsoil, and soil piles, protecting them from erosion before reclamation begins, and keeping the topsoil free from acid and toxic materials
 - plan for insuring that acid forming or toxic materials constituting a hazard uncovered or created during mining or milling are promptly treated in a manner to prevent water and air contamination
 - measure to maintain the quantity and quality of ground and surface water, hydrologic balance, productivity of farmland, and soil and water recharge capacity procedures to prevent water and air contamination through radioactive or toxic seepage of runoff from tailings, ponds, mine wastes, mine dewatering discharge, or other mining and milling related operations
- j. A plan for the reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands, and shall include:
 - a reclamation schedule
 - methods of grading, backfilling and contouring of disturbed areas and access roads
 - methods of waste management and disposal, including liquid and solid wastes
 - methods of revegetation

- k. A surety performance bond in the amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate of the cost of reclamation and decontamination. The bond shall be released five (5) years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been completed. The amount of the bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.
- 2. The applicant shall identify specific phases when monitoring and inspection of the mining and milling process shall be conducted by county, state, federal or independent personnel to assure compliance with all applicable rules and regulations. If the Conditional Use is granted, the permit shall identify the inspection agency and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Commissioners.
- 3. A Conditional Use shall be issued only after all conditions specified therein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of the mining and milling.

C. Solution mining and/or in situ mining of an ore body with the circulation of chemicals through injection and recovery wells for minerals is prohibited.

11.18 Temporary Uses

- A. Intent. The requirements of this section are intended to provide for the regulation and permitting of uses and associated improvements on private property which are not so recurring in nature as to constitute a permanent use. These requirements are not intended to regulate temporary uses on public property, including public rights-of-way.
- B. Permit Required. No person shall operate a temporary use without first obtaining a permit therefore from the Zoning Administrator as prescribed in this section. If an objection is filed pursuant to Section 11.18(E) or if the Zoning Administrator determines that a hearing should be held due to the scope of the proposed use, the Zoning Administrator shall refer the temporary use application to the Planning Commission for action.
- C. Applications.
 - 1. Submission deadline. All applications for a temporary use permit shall be made at least 60 days prior to the proposed commencement date of the use, provided that the Zoning Administrator may approve a lesser time consistent with the requirements of this section.

2. Temporary use plan. All temporary uses shall be subject to approval of a temporary use plan. The plan shall describe the nature and location of all temporary improvements and activities, the location of any permanent buildings intended to be used, the time period for which the temporary use permit is requested, and such other information in sufficient detail as the Zoning Administrator determines is reasonably necessary to adequately review the application and to ensure the use will be conducted in a manner consistent with the requirements of this section.

D. Standards for review. The following standards shall be used in determining the suitability and compatibility of a temporary use:

1. The temporary use will have no adverse effect on nearby properties or jeopardize public health, safety, and general welfare.
2. The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.
3. The site is adequate to accommodate the proposed use, including the provision for on and off site parking.
4. Adequate sanitation facilities will be available on the site.
5. The time period and hours of operation for the temporary use are clearly specified.
6. Provision is made for the removal, clean-up, and restoration of the site.
7. The temporary use will not adversely impact the natural environment.
8. The site is suitable for the proposed temporary use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health or property.
9. All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county's building code.

E. Notice. The Zoning Administrator shall send written notice of the temporary use permit application to the owners of all property located within at least 600 feet of the property involved. Such notice shall be sent at least fourteen days before the Zoning Administrator makes his or her determination on the temporary use permit. If any of the owners so notified file a written objection prior to the time the Zoning Administrator makes his or her determination regarding the application, the application shall be referred to the Planning Commission for action.

F. Conditions of approval. Reasonable conditions may be required in connection with the approval of any temporary use permit which are deemed necessary to protect the public

health, safety and welfare and the social and economic well being of those who will use the temporary use, residents and landowners immediately adjacent to the proposed use, and the community as a whole. Any condition imposed must be clearly specified in writing on the temporary use permit.

- G. Appeal of decision. Any person aggrieved by an action of the Zoning Administrator in granting, denying, revoking, or suspending a temporary use permit may appeal such action to the Planning Commission. Such appeal shall be in writing and filed with the Zoning Administrator within five working days of the decision. The action of the Planning Commission may be appealed to the Board of County Commissioners in the same manner.
- H. Fee. A fee of \$50 shall accompany the application for a temporary use permit.
- I. Exemptions. The following uses shall not require a temporary use permit:
 - 1. Estate or real estate sales involving the property or items from the property where the sale is held.
 - 2. Garage, yard or rummage sales provided:
 - a. Sales last not longer than three (3) days.
 - b. Sales are held no more than twice yearly.
 - c. Sales are conducted on the owner's property or one of the owner's property in case of a multi-party sale.
 - 3. Weddings, purely social parties or similar family events where the function or event involves the owner or lessor of the property and where no monetary consideration or fees for such use of the property or attendance is involved.

11.19 Solar Energy Systems

The regulations regarding Solar Energy Systems, for both small accessory use and commercial use, shall be as follows:

A. General Requirements

- 1. The exterior surfaces of solar energy systems shall be generally neutral in color and substantially non-reflective of light. A unit shall be installed or located such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways.
- 2. Solar energy systems must be installed in compliance with the National Electric Code, the manufacturer's specifications, and all other applicable codes. A copy of the manufacturer's installation and maintenance instructions must be submitted for

review. Written evidence that utility company provider has been notified shall be submitted.

3. A solar energy system must be permanently and safely attached to the building, structure, or ground. Proof of the safety and reliability of the means of such attachment must be submitted to Authorized Official prior to installation.
4. Solar energy systems and the installation and use thereof must comply with the applicable building codes, County, State, and Federal requirements.
5. Solar energy systems are only allowed as an accessory use.

B. Small Accessory Use Solar Energy Systems

1. Building Mounted Systems. Building-mounted solar energy systems that do not exceed one (1) acre in lot coverage that primarily meet the needs of on-site users shall be a conditional accessory use in all zoning districts, subject to the following requirements:
 - a. Building-mounted solar energy system may only be attached to a principal building, or an accessory building serving the principal use, such as a barn, garage, or shed.
 - b. A roof-mounted unit on a sloped roof shall not project above the peak of the roof to which it is attached. When a roof-mounted unit is attached to a flat roof, it must not project higher than three (3) feet above the building height and must be screened with a wall at least one (1) foot taller than the unit. In no instance shall a roof-mounted unit exceed the maximum allowable height for the zoning district.
 - c. Roof-mounted panels that are integrated as the surface layer of the roof structure may be located on any part of the roof.
 - d. A wall-mounted solar energy system must not extend further than ten (10) feet from the building wall and must not extend into a required yard.
2. Ground Mounted Systems. Ground mounted solar energy systems that do not exceed one (1) acre in total lot coverage that primarily meet the needs of on-site users shall be a conditional accessory use in all zoning districts, subject to the following requirements:
 - a. Height. A ground mounted solar energy system shall not exceed fifteen (15) feet in height, measured from the ground at the base of the unit.
 - b. All power transmission lines must be underground.

- c. **Setbacks.** Ground mounted solar energy system must be located in the rear or side yard and must meet the required minimum side and rear yard setbacks of the district in which they are located.
- d. **Screening.** Ground mounted solar energy system must be screened to shield the public view to the maximum extent practicable. Screening shall be designated in the conditional use permit application. Screening requirements may be waived in locations where natural features and existing vegetation are proven to meet the screen objectives of this section.

C. **Large Scale Use Solar Energy Systems, Prohibited.** Any ground mounted solar energy system or building mounted solar energy system that exceeds one (1) acre in total lot coverage is prohibited.

D. **Applications and Procedures**

- 1. Conditional Use Permit Application/Review. In addition to the requirements of Chapter 17.01(A), every conditional use permit application for a solar energy system application must include the following information:
 - a. A generalized plan for connecting the proposed project into the utility grid. This shall include evidence that an interconnection request for the project has been filed; or if an interconnection request has not been filed, all other utility interconnection information as requested by the Board of Adjustment. If the solar energy system is solely for use on the property, the applicant must notify utility company provider of the project and provide proof of contact in the application.
 - b. General information regarding the type, size, height, rated power output, performance, and safety of each model that will be used.
 - c. At least one (1) photograph or scaled drawing of each model that will potentially be used. Each photograph or scaled drawing must include the maximum height, dimensions, and general design.
 - d. A topographic map of the site including all wetlands, floodplains, floodways, and any other sensitive environmental areas. If any wetlands, floodplains, floodways, or other environmentally sensitive areas are located on the sitemap, the applicant must provide a plan for how they intend to minimize or prevent harmful impacts to these areas.
 - e. Project schedule with anticipated construction date(s) and completion date(s).
 - f. If ground mounted system, provide general information regarding how the applicant intends to protect livestock, protect and segregate topsoil from subsoil

in cultivated lands, protect tile drainage, protect drainage ditches, control dust, and minimize the impacts of soil compaction.

- g. If ground mounted system, provide general information regarding the species and habitats that could potentially be impacted by the development on the site. This includes information about the site and neighboring properties, as development next to sensitive habitats greatly impacts species.
- h. Application must include a Decommissioning Plan. The Decommissioning Plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out the decommissioning process and any restoration requirements when they go into effect. Failure to submit the Final Decommissioning Plan shall constitute grounds for review and possible revocation of the conditional use permit.

2. Building Permit Application/Review

- a. Application Contents. In addition to the requirements of Chapter 15.01, every building permit application for a solar energy system must include the following information:
 1. A finalized agreement for connecting the property to the utility grid. The owner must provide written notice in the event the executed interconnection agreement is cancelled, renegotiated, expired, etc.
 2. Final information regarding the type, size, height, rated power output, performance, and safety of each model that will be used for the project.
 3. At least one (1) photograph or scaled drawing of each model that will potentially be used. Each photograph or scaled drawing must include the maximum height, dimensions, and general design.
 4. A finalized plan regarding the handling, processing, treatment, storage, and disposal of any wastes, fluids, or other pollutants that will be generated, emitted, or discharged during the lifetime of the project.
 5. For ground mounted systems, final information regarding how the permittee(s) intends to protect livestock, protect and segregate topsoil from subsoil in cultivated lands, protect tile drainage, protect drainage ditches, control dust, and minimize the impacts of soil compaction.
- b. Unless otherwise specified herein, failure to provide material, corrective, or supplemental information regarding any of the items listed in this Chapter within thirty (30) days of making or becoming aware of any such change shall constitute grounds for review and possible modification or revocation of the conditional use permit.

E. Decommissioning/Restoration/Abandonment.

1. Final Decommission Plan. The Final Decommission Plan shall describe in detail the manner in which the permittees will decommission the project. Failure to submit a Final Decommissioning Plan shall result in the Board of Adjustment reviewing the conditional use permit for possible modification or revocation.
2. Site Restoration. Upon expiration of the conditional use permit, or upon earlier termination of operation of the solar energy system, the permittee(s) shall have the obligation to dismantle and remove from the site all electrical generating equipment, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four (4) feet. To the extent possible, the permittee(s) shall restore and reclaim the site to its pre-project topography, including restoration of topsoil, revegetation and seeding. The site shall be restored in accordance with the requirements of this Section within eighteen (18) months after expiration or termination of the solar energy system at the site.
3. Termination of Operations Defined. The use of any electrical generating equipment, overhead or underground cables, foundations, buildings, ancillary equipment, or the project itself is presumed to have terminated if it is not actively used or generates no electricity for a continuous period of twelve (12) months.
4. Cost Responsibility. The owner or operator of the solar energy system is responsible for decommissioning and for all costs associated with decommissioning.
5. Failure to Decommission. If the owner or operator of the solar energy system does not complete decommissioning, the Board of County Commissioners may take any such action as may be necessary to complete decommissioning, including requiring forfeiture of the financial assurances.

(Amended: Ord. No. 2020-05, 09-22-20; Ord. No. 2024-03, 11-07-24; Ord. No. 2025-07, 11-25-25)

11.20 Fences

Regulations regarding fences within the RR Rural Residential and LR Lake Residential districts shall be as follows:

- A. Fences up to six feet in height may be located on any part of the lot except that such a fence may not be more than 30 percent solid if located within 30 feet of a street intersection measuring along the property line.
- B. No fence shall be erected that violates section 11.02 (A) of these ordinances.

(Amended: Ord. No. 2025-05, 09-24-25; Ord. No. 2025-07, 11-25-25)

12

ADJUSTMENTS TO YARD REGULATIONS

12.01 Location of Some Accessory Buildings

Accessory structures located ten (10) feet or more from the main building may be erected within five (5) feet of the side and rear property lines. In all cases, accessory structures shall not occupy more than 10 percent of the rear yard.

12.02 Adjustment to Front Yard Requirements

A front yard may be adjusted to an average of the adjacent structures front yards where existing adjacent structures have a front yard less than required. A new existing farm accessory building may be placed in line with an existing farm accessory building as long as the new building does not conflict with visibility at intersections. (See 11.02)

12.03 Adjustment to Side Yard Requirements

Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

12.04 Projection From Buildings

Every part of any required yard shall be open to the sky and unobstructed except:

- A. Eaves may project into a front, side, or rear yard;
- B. Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features which may project twelve (12) inches;
- C. Air conditioner may project 3 feet from the building;
- D. An open, unenclosed porch may project into a required front yard for a distance not exceeding ten (10) feet while balconies and paved terraces may project six (6) feet into a required front yard; and
- M. Terraces, uncovered porches, platforms, decks, and ornamental features which do not extend above the level ground (first) floor may project into a required yard, provided these

projections be distances at least two feet from the adjacent side or rear lot line.

13

NONCONFORMING AND NONSTANDARD USES

13.01 Purpose and Intent

The purpose of this chapter is to provide for the regulation of nonconforming uses, buildings and structures and to specify those circumstances under which they shall be permitted to continue.

13.02 Continuation of Nonconforming Uses

Subject to the provisions of this chapter, the lawful use of a premise existing immediately prior to the effective date of this title may be continued although the use does not conform to the provisions hereof.

13.03 Use Becoming Nonconforming by Change in Law or Boundaries

Whenever the use of a premises becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may be continued although the use does not conform to the provisions hereof.

13.04 Change of Nonconforming Use

- A. If no structural alterations or additions are made, a nonconforming use may be changed to another nonconforming use of the same type of activity or more restrictive classification that:
 1. If the proposed use is a permitted use, all conditions must be met or a conditional use permit obtained.
 2. If the proposed use is a conditional use, a conditional use permit must be obtained.

Whenever a nonconforming use has been changed to a more restrictive use or to a permitted use, such use shall not thereafter be changed to a less restrictive use.

13.05 Extension or Enlargement

A nonconforming use shall not be enlarged, extended, converted, reconstructed or structurally altered unless such use is changed to a use permitted in the districts in which the premise is located, except that a conditional use permit may be authorized after the following criteria are

given specific consideration:

- A. Effect on surrounding property values.
- B. The density of land use zoning for the subject and adjacent properties.
- C. The degree of hardship upon the applicant which would be caused by failure to grant the permit.
- D. It can be demonstrated that it was the owner's intent to use the entire premises for said use prior to the adoption, revision or amendment of this ordinance.

(Amended: Ord. No. 2019-02, 08-13-19)

13.06 Restoration after Damage

When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than fifty (50) percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located.

Exception: Single family dwellings may be restored if damaged less than 100 percent.

(Amended: Ord. No. 2019-02, 08-13-19)

13.07 Discontinuation of Nonconforming Use

In the event that a nonconforming use is discontinued for a period of more than one year, any subsequent use, lot, or occupancy of the land or premises shall be in conformance with such regulation.

13.08 Effect on Use Which is Illegal Under Prior Law

Nothing in this title shall be interpreted as authorization for, or approval of, the continuance of the use of a premise in violation of zoning regulations in effect immediately prior to the effective date of this title.

13.09 Continuation of Nonstandard Uses

Nonstandard uses existing immediately prior to the effective date of this title 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. Enlargements, extensions, conversions or structural alterations may be made as required by law or ordinance.

- B. Structural alterations of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yard for the district in which they are located.
- C. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking and density for the district in which they are located.

No enlargement, extension, conversion of buildings or structures, structural alterations of buildings or structures shall be made without first having obtained a building permit available from the Zoning Administrator of McCook County.

14

ADMINISTRATION AND ENFORCEMENT

14.01 Powers and Duties

The Zoning Administrator is hereby authorized and directed to enforce all the provisions of the Zoning Ordinance and establish rules for its administration. For such purposes he or she shall have the powers of a law enforcement officer. The Zoning Administrator shall have the power to render interpretations of this ordinance. Such interpretations shall be within the intent and purpose of the Zoning Ordinance, and be set forth in writing. In addition, the Zoning Administrator may appoint or solicit technical advice, inspectors, county officials and other county employees to assist with the administration of the Zoning Ordinance.

14.02 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this title, the Zoning Administrator and authorized representatives may enter such building or premises at all reasonable times to inspect. Provided such building or premises is occupied, the Zoning Administrator or authorized representative shall first present proper credentials and request entry. If such building or premises is unoccupied, the Zoning Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Zoning Administrator or authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Zoning Administrator or authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry of the building or premises, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect to promptly permit entry.

14.03 Stop Order

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

15

BUILDING PERMITS AND FEES

15.01 Building Permits

No new development, change of use, moving in of structures, or other action which may be regulated by the provisions of this ordinance including use, height, number of occupants, lot area, off-street parking or yard requirements, shall occur without a Building Permit issued by the Zoning Administrator.

- A. An Application for Building Permit, available from the Zoning Administrator, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Zoning Administrator for review. To be considered complete, the application form shall be accompanied by the following additional items:
 1. Any required attachments and County fees;
 2. One copy of proposed building/alteration plans drawn to scale, showing the dimensions and shape of the lot to be built upon, including setback requirements; the sizes and locations of existing buildings, if any.
 3. Any additional information, as requested by the Zoning Administrator, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.
- B. Every building permit issued under the provisions of this chapter shall expire by limitation and become null and void if the building or work or use authorized by such permit is not commenced within 180 days from the date of such permit, or if the building, work, or use authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall first be obtained to do so, provided no changes have been made or will be made in the original plans and specifications for such work.
Any permittee holding an unexpired building permit may apply for an extension of the time within which he may commence work under that building permit when he is unable to commence work within the time required for this section for good and satisfactory reasons. The Zoning Administrator may, except as otherwise provided herein, extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

- C. The copy of plans shall be retained by the Zoning Administrator for County Records.
- D. If the Zoning Administrator determines the proposed action would not be in compliance with the provisions of these regulations, a Building Permit may not be issued, except upon completion of one of the following processes established in these regulations, as may be applicable to such proposed action. The Zoning Administrator shall inform the applicant when one of the following processes may be applicable:

1. Variance
2. Amendment
3. Conditional Use

Issuance of a Building Permit shall indicate that, in the opinion of the Zoning Administrator, the proposed use and/or alterations of existing use are in compliance with the requirements of these Zoning Regulations. Issuance of a Building Permit shall not be construed as waiving any provisions of these regulations. Proposed uses and/or alterations of existing uses which are not in compliance with the requirements of these Zoning Regulations shall not be issued a Building Permit.

(Amended: Ord. No. 2021-02, 05-25-21)

15.02 Fees

A schedule of fees, charges, and expenses for permits, change of zone, appeals, and other matters pertaining to this Zoning Ordinance shall be established by resolution of the County Commission. The current fee schedule shall be available from the Zoning Administrator. All fees shall be the property of the County and shall be paid over to the County Treasurer for credit to the General Fund of the County 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. If any activity is commenced prior to the application, the application fee shall be double the regular fee.

(Amended: Ord. No. 2021-02, 05-25-21)

A copy of McCook County's Right to Farm Covenant is listed on the following page.

RIGHT TO FARM NOTICE COVENANT

You are hereby notified that the property you are purchasing is located within 1320 feet of agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the operation of machinery; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there may be the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs and may not be removed from the record title without consent of the McCook County Planning Commission.

Legal Description:

Signature

State of South Dakota County of McCook.

On this the _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that _____ executed the same for the purposes contained.

In witness whereof I hereunto set my hand and official seal.

Prepared by:

Name _____

Address _____

Phone: _____

My commission expires _____

16

BOARD OF ADJUSTMENT

16.01 Establishment

A Board of Adjustment is hereby established for McCook County to consist of all members of the McCook County Commission, in accordance with SDCL 11-2.

16.02 Powers and Duties

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

- A. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Zoning Administrator in the enforcement of this ordinance.
- B. To hear and decide appeals to decisions made by the Zoning Administrator regarding Zoning Permits.
- C. To hear and decide upon petitions for variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.
- D. To hear and decide only such Conditional Uses as the Board of Adjustment is specifically authorized to pass on by 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.

16.03 Variances

The Board of Adjustment shall have the jurisdiction to hear and decide upon petitions for variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. The following procedure for requesting a variance shall be followed:

- A. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making;
- B. Literal interpretation of the provisions of this ordinance would deprive the applicant of

rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

C. The variance requested is the minimum variance that will alleviate the hardship;

D. Granting of the variance will comply with the general purpose and intent of this ordinance, and will not be offensive to adjacent areas or to the public welfare; and

E. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.

F. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a variance. A Variance shall remain valid only as long as the property owner complies with any terms and conditions of the variance, as attached by the Board of Adjustment.

The procedure for receiving a variance shall be as follows:

1. An application, available from the Zoning Administrator, shall be completed by the landowner and submitted for review. The application shall indicate the provision(s) of these regulations from which a variance is sought and state the grounds on which it is requested.
2. The Zoning Administrator shall review the application and recommend to the Board of Adjustment to either grant or deny such variance. The Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or denial of the variance.
3. The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Board of Adjustment. Notice of the hearing shall be given at least 10 days in advance by publication in the official newspaper(s). The owner of the property for which the variance is sought, or his agent, shall be notified by mail. Notice of such hearing also shall be posted 10 days prior to hearing, on the property for which the variance is sought.

G. The procedure for considering the variance application shall be as follows:

1. The public hearing shall be held. Any person may appear and be heard.
2. In order to grant a variance, the Board of Adjustment shall make written findings certifying compliance with the rules governing individual variances and that the following provisions have been met, where applicable:
 - a. Extraordinary conditions or circumstances exist which are peculiar to the use or structure involved and are not applicable to other uses or structures in the same district.

- b. Literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations and would create an undue hardship on the use of the land.
- c. The special conditions or circumstances are not the result of the applicant's actions.
- d. The applicant will not receive any special privilege denied to other uses or structures in the district.
- e. The variance is the minimum possible to allow reasonable use of the property or structure.
- f. The general purpose and intent of these regulations will be followed, and the action will not be offensive to adjacent areas or to the public interest.
- g. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be grounds for a variance.

- 3. In order to preserve the intent of these regulations and to protect the public interest, the Board of Adjustment may attach conditions to the permit. A permit shall remain valid only as long as the original applicant complies with the conditions.
- 4. The concurring vote of two-thirds of the members of the Board of Adjustment as so comprised is necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in the ordinance. (SDCL 11-2-60)

16.04 Appeal Procedure

- A. A notice of appeal shall be filed with the Zoning Administrator, who shall transmit to the Board of Adjustment all information and records concerning the appeal within ten business days.
- B. The Board of Adjustment shall keep a public record of all findings and decisions. Meetings shall be held at the call of the Chairman and at such other times as necessary. Each session at which an appeal is to be heard shall be a public meeting. The Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the county no less than ten days before the public hearing.
- C. The public hearing shall be held. The appellant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action shall be completed by the Board. The concurring vote of two thirds of

the members of the Board of Adjustment shall be necessary to approve any appeal or arrive at any determination.

17

CONDITIONAL USE PERMITS

17.01 Conditional Uses

The Board of Adjustment may authorize by conditional use permit the uses designated in this Ordinance when located in a zoning district allowing such use. The Board of Adjustment shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and to protect the health, safety, and general welfare in the issuance of such conditional use permit.

- A. Application. To obtain a conditional use permit, the applicant shall file an application with the Zoning Administrator on a form as provided. Every application shall contain the following information:
 1. Legal description of the land on which such conditional use is requested.
 2. Name, address and phone number of the owner of the property which is the subject of such application.
 3. Name, address and phone number of the person making the application if made by anyone other than the owner.
 4. Zoning district classification under which the property is regulated at the time of such application.
 5. Any other information concerning the property as may be requested by the Zoning Administrator.
- B. Fees. Upon the filing of any application for conditional use with the Zoning Administrator, the applicant shall pay to the County the appropriate fee as designated in Chapter 15.
- C. Information on Site Plan. In addition to the following information, plans shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Ordinance and all relevant laws, rules, and regulations.

Exception: The Zoning Administrator may waive the submission of plans, if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

1. The address of the property and the legal description.
2. The name of the project and/or business.
3. The scale and north arrow.
4. All existing and proposed buildings or additions.
5. Dimensions of all buildings.
6. Distance from all building lines to the property lines at the closest points.
7. Building height and number of stories.
8. Dimensions of all property lines.
9. Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
10. Screening; show height, location, and type of material to be used.
11. The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
12. Name and location of all adjacent streets, alleys, waterways and other public places.

Approved site plans shall not be changed, modified, or altered and all work shall be done in accordance with the approved site plans.

D. **Board of Adjustment Hearing.** Upon the filing of an application for a conditional use permit, the Zoning Administrator shall set a date for public hearing on such requested conditional use, at which time and place the Board of Adjustment shall meet to consider the conditional use request.

1. **Notification.** No less than ten days before the scheduled public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of general circulation in the area affected.
2. **Signs.** A sign(s) to be provided by the Zoning Administrator shall be posted on or near the property at least seven days prior to the scheduled hearing.
3. **Action.** The Board of Adjustment shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Board of Adjustment shall be final unless an appeal is filed in accordance with

Section 17.01(E). A favorable vote by two-thirds of the members of the Board of Adjustment shall be required to approve each request.

- E. Appeal of Board of Adjustment Decision. Appeals may be taken to the Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the County, aggrieved by any decision of the Board of Adjustment, in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.
- F. Amendments. Amendments shall be processed in the same manner as required for a separate conditional use permit.
- G. Expiration. A conditional use permit which has been approved shall expire by limitation and become null and void if the building, work or use authorized by such conditional use permit is not commenced within two years from the date of approval. This provision shall not apply to a conditional use permit approved for a residential use in the AG or FC zoning districts. Upon written request to the Zoning Administrator and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the Zoning Administrator.
- H. Conditional Use Criteria. The following considerations shall be employed when acting upon requests for conditional uses:
 - 1. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.
 - 2. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.
 - 3. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.
- I. Preexisting Uses. An existing use eligible for a conditional use permit which was lawfully established on the effective date of this Ordinance shall be deemed to have received a conditional use permit as herein required and shall be provided with such permit by the County upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in accordance with this Ordinance shall be required.
- J. Reapplication. No applicant requesting a conditional use permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Board of Adjustment shall be again considered by the Board of Adjustment before the expiration date of six months from the date of the final action on the petition.

K. Review of Permit by Board of Adjustment. The following procedures shall be employed when acting upon reviews of conditional use permits:

1. Basis for Review. Noncompliance with any of the terms, conditions or requirements placed on a conditional use permit by McCook County is sufficient cause to subject such permit to review by the Board of Adjustment.
2. Procedure. If the Zoning Administrator is reasonably satisfied there exists any noncompliance with the terms, conditions or requirements of a conditional use permit, the Zoning Administrator shall give written notice of such noncompliance to the person, firm, corporation or entity to which the permit was granted. Additionally, the Zoning Administrator shall advise the Board of Adjustment of such noncompliance at its next regularly scheduled meeting. Upon such advisement, the Board of Adjustment shall set a time for review of the permit at a subsequent regularly scheduled meeting. Such review will be open to the public.
3. Notice of Review Hearing. At least ten days prior to the hearing, the following shall occur:
 - a. The Zoning Administrator shall give written notice of the review hearing to the person or entity for whom the permit was authorized;
 - b. Notice of the hearing shall be published at least once by the Zoning Administrator in a legal newspaper of the county;
 - c. The Zoning Administrator shall be responsible for posting at least one sign on the property in such a manner so as to be clearly visible from the street, road or other public right-of-way from which entrance or access to the property is gained.
4. Hearing. In the event the Board of Adjustment determines by substantial evidence that such compliance has not been established, it may do any of the following:
 - a. Revoke said permit.
 - b. Amend said permit.
 - c. Postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions and requirements of the permit in question.
 - d. Require any other such action it deems appropriate and in accordance with the provisions of this Section.
5. Effect of Revocation. Any person, firm, corporation or entity to which a conditional use permit has been granted and subsequently revoked by the Board of Adjustment

may not apply for a conditional use permit pursuant to Section 17.01(A) for a period of six months.

6. **Appeal.** Appeals from decisions made by the Board of Adjustment pursuant to this section shall commence and proceed in accordance with Section 17.01(E).

18

AMENDMENTS AND CHANGE OF ZONE

18.01 Procedure

Zoning amendments and change of zones are changes to McCook County's Zoning Regulations. Applications for amendment may be submitted by either the County or any owner of land within the County. The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, or repealed, provided however, that no such action may be taken until after public hearings, at which parties in interest and citizens shall have an opportunity to be heard.

The following procedure for requesting an amendment shall be followed:

- A. An application, available from the Zoning Administrator, shall be completed and submitted for review and shall be accompanied by any required attachments and fees. The Zoning Administrator shall review the application for amendment or change of zone and forward the application and his/her comments to the Planning Commission for review.
- B. The Zoning Administrator shall set the date, time and place for a Planning Commission public hearing. If an individual landowner has petitioned for a change in zoning of his property, he/she shall notify all adjacent landowners by registered or certified mail on the petitioned zoning change at least seven (7) days prior to the Planning Commission public hearing (SDCL 11-2-28.1) and will be required to bring postal receipts to the public hearing, as well. Property shall be considered as adjacent even though it may be separated from the property of the petitioner by a public road or highway. Notice of the hearing shall be posted on the property, in a location that is clearly visible from the right-of-way, for which the rezone or amendment is sought ten (10) days prior to the Planning Commission public hearing. The Zoning Administrator shall also publish notice of the public hearing in a newspaper of general circulation in the area affected for a proposed amendment and change of zone. Such notice shall be published in a legal newspaper of the county once not less than ten (10) days prior to the public hearing.
- C. 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.
- D. The Planning Commission shall either recommend or not recommend approval of the amendment to the County Commission.

- E. The Zoning Administrator shall set the date, time and place for a County Commission public hearing. The Zoning Administrator shall also publish notice of the public hearing in a newspaper of general circulation in the area affected for a proposed amendment or change of zone. Such notice shall be published in a legal newspaper of the county once not less than ten (10) days prior to the 2nd public hearing.
- F. The County Commission shall either approve or not approve the ordinance describing the proposed amendment or change of zone to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date. (SDCL 7-18A-5)
- G. When a proposed amendment or change of zone is approved by the County Commission, the amendment shall take effect twenty (20) days after publication, unless the referendum shall have been invoked.

19

DEFINITIONS

19.01 Purpose

In the application of this ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

- A. Words used in the present tense shall include the past and future.
- B. Words used in the singular number shall include the plural number and the plural, the singular.
- C. The word "shall" is mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The words "used" or "occupied" shall include the words "intended," "designed," or "arranged to be used or occupied."
- F. The word "lot" shall include the words "plot," "parcel," or "tract."
- G. The word "person" shall include a "firm," "association," "organization," "partnership," "trust," "company," or "corporation" as well as an "individual."
- H. The word "building" shall include the words "structure" and "premises."
- I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

19.02 Definitions

ABUTTING - Abutting shall mean adjacent or contiguous property except property which is separated by a publicly dedicated roadway. The term "abutting" implies a closer proximity than the term "adjacent."

ACCESSORY BUILDING OR USE - An accessory building or use is one which:

- 1. Is customary and clearly incidental to the principal use;
- 2. Serves exclusively the principal use;

3. Is subordinate in area, extent or purpose to the principal use served;
4. Contributes to the comfort, convenience, or necessity of occupants of the principal use served; and
5. Is located on the same zoning lot as the principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

ACTIVITY - Any application for a permit under this ordinance or any development or use encompassed within the jurisdiction of this Ordinance.

ADULT ARCADE - Any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.

ADULT BOOKSTORE OR VIDEO STORE - A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

1. Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.
2. Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.

ADULT CABARET - Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or seminudity.
2. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

ADULT MOTION PICTURE THEATER - A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.

ADULT ORIENTED BUSINESS - Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.

ADULT SERVICE - Dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.

ADULT THEATER - A theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

AGRIBUSINESS – Farming engaged in as a large-scale business operation embracing the production, processing, and distribution of agricultural products and the manufacture of farm machinery, equipment, and supplies.

AGRICULTURE - The production, keeping, or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. This definition **shall not include** intensive agricultural activities such as feedlot operations, chicken farms, and agribusiness activities.

AGRICULTURE (CROPPING) – The production, keeping, or maintenance, for sale, lease or personal use, of plants useful to man, including but not limited to: forages sod crops; grains and seed crops; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. This definition **shall not include** the production, keeping, or maintenance, for sale, lease or personal use, of animals useful to man.

(Amended: Ord. No. 2025-06, 11-12-25)

AIRPORT - A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including Heliports.

ALLEY - An alley is a public right-of-way which affords only a secondary means of access to abutting property.

ANTENNA - Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.

AQUIFER - A geologic formation, group of formations, or part of a formation capable of

yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

ARCADE - A building or structure, open to the public, which contains coin operated games and similar entertainment and amusement devices, as the primary use or with five (5) or more games as an accessory use.

ASSISTED-LIVING CENTER AND CONGREGATE CARE FACILITY - A licensed health care facility to provide 24-hour supervision of the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may also provide services, such as recreational activities, financial services, and transportation.

AUTOMOBILE STORAGE YARD - The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.

AWNING/CANOPY - A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BED AND BREAKFAST ESTABLISHMENT - A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

BOARD OF ADJUSTMENT - Public and quasi judicial agency charged with duty to hear and determine zoning appeals.

BOARDINGHOUSE - A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

BROADCAST TOWER - Shall mean a structure, not including offices or studio, for the transmission of radio or television broadcast communications.

BUILDABLE AREA - The three-dimensional space within which a building is permitted to be built on a lot and which is defined by maximum height regulations and yard setback regulations.

BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground or attached to the ground with a fixed location on the ground.

BUILDING, DETACHED - A building surrounded by open space on the same lot.

BUILDING ELIGIBILITY - A site which fulfills the requirements for the construction or placement of a residential dwelling or manufactured home. To compute the number of eligible building sites on a lot of record of forty (40) acres or more, the total acreage of the parcel shall be divided by forty (40) acres. The resulting whole number is the number of building sites eligible on the lot of record.

BUILDING, HEIGHT - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten feet of the structure.

BUILDING LINE - A line parallel to the curb line touching that part of a building or parking lot closest to the street.

BUILDING PERMIT - A document signed by the Zoning Administrator as a condition precedent to the commencement of a use or the erection, construction, re-construction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use, or building complies with the provisions of the municipal zoning ordinance or an authorized variance therefrom.

BUILDING, RESIDENTIAL - A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings;
2. Single-family attached dwellings;
3. Multiple-family dwellings (including apartment hotels);
4. Lodging houses; and
5. Fraternity and sorority houses.

BUS PASSENGER TERMINAL - A place where the transfer of people between modes of transportation takes place.

BUS/TRUCK TERMINAL - An area and building where buses, trucks, and cargo is stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of vehicles is performed.

BUS/TRUCK WASH - Any building or portions thereof used for washing buses and/or trucks.

CAMPGROUND, TRAVEL TRAILER PARKING AREA - 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.

CAR WASH - Any building or portions thereof used for washing automobiles.

CERTIFICATE OF OCCUPANCY - A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

CHANGE OF USE - Substitution of one thing for another specifically regarding use of land or use of a building.

CHURCH - A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CLINIC - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, optometrists, social workers, etc., and where patients are not usually lodged overnight.

CLUB - Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

COMMERCIAL PARKING LOT/FACILITY - An approved open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored for a fee.

COMMERCIAL SOLAR ENERGY CONVERSION SYSTEM - Any mechanism or device designed for the purpose of commercially converting solar energy into electrical or mechanical power.

COMMON OWNERSHIP – A single, corporate, cooperative, partnership, or other joint operation or venture.

(Amended: Ord. No. 2020-06, 09-22-20; Ord. No. 2024-01, 01-23-24)

COMPREHENSIVE PLAN - The adopted long-range plan intended to guide the growth and development of the community and region, including analysis, recommendations and proposals of the community's population, economy, housing, transportation, community facilities, and land use.

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) - A lot or facility that stables, confines, and feeds or maintains livestock in either an open or housed lot for a total of one hundred and eighty (180) days or more during any twelve (12) month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season over any portion of the lot or facility. Two (2) or more concentrated animal feeding operations under common ownership are a single concentrated animal feeding operation if they adjoin each other (within one (1) mile) or if they use a common area or system for the disposal of manure.

(Amended: Ord. No. 2020-06, 09-22-20; Ord. No. 2024-01, 01-23-24)

CONDITIONAL USE - A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, or general welfare. The Board of Adjustment may permit such uses when specific provision is made in the zoning district

regulations.

CONTRACTOR'S SHOP AND STORAGE YARD - Use of land or buildings for storage and preparation of materials used by that same individuals in conducting the business of construction and repair work, generally completed at some other on-site location.

CONTAMINANT - Any "regulated substance," as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

CONVENT AND MONASTERY - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in adjacent institutions.

COUNTY - Means McCook County, South Dakota.

COUNTY COMMISSION - Means Board of County Commissioners, McCook County, South Dakota.

CURB LINE - The outside lines of the pavement or roadway.

DAY CARE - The providing of care and supervision of a child or children/adults as a supplement to regular parental/home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

DAY CARE, CENTER - Is normally in a facility used only for providing day care, nursery, or pre-kindergarten services, and is limited in number over twelve (12) by the square footage of usable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per child outdoors.

DAY CARE, FAMILY - Care is done in a family home, and the number of persons cared for is limited to a maximum of six (6) adults or six (6) children under fourteen. Included in that count are the providers' own children six (6) years and under. See (Home Occupation).

DAY CARE, GROUP - Is normally in a family home. The number of persons cared for is seven (7) to twelve (12) adults or children under the age of fourteen including the provider's own children six (6) years and under.

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

DEVELOPMENT - The carrying out of any construction, reconstruction, alteration of surface, structure, change of land use or intensity of use, and including but not limited to the deposit of refuse, solid or liquid waste, any mining or drilling operation, or work relating to the creation of a road, street, or parking area.

DISTILLATION OF PRODUCTS - A building or premises used for the purification and concentration of a substance by volatilization or evaporation and subsequent condensation.

DISTRICT - A part, zone, or geographic area of the McCook County within which certain zoning or development regulations apply.

DRIVE-UP SERVICE WINDOW/DEVICE - An establishment which accommodates the patron's motor vehicles, from which the occupants may obtain or receive a service or obtain a product through a service window or automated device.

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses.

DWELLING, ATTACHED - A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, MULTIPLE-FAMILY - A building, or portion thereof, containing three (3) or more dwelling units.

DWELLING, SINGLE FAMILY DETACHED - A dwelling which is designed for and occupied by not more than one family and is surrounded by yards and is not attached to any other dwelling by any means.

DWELLING, SINGLE FAMILY FARM - Single family dwelling located on a farm which is used or intended for use by the farm's owner or relative of the owner or a person employed thereon.

DWELLING, TOWNHOUSE - One of a group or row of two or more single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

DWELLING UNIT - One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

ELECTRICAL SUBSTATION - A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

EXISTING ANTENNA SUPPORT STRUCTURE - Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and

broadcast towers, buildings, clock towers, steeples and light poles.

FAMILY - One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three adults who are unrelated by blood or law. In addition to the persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title:

1. A person residing with the family for the purpose of adoption;
2. Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency;
3. Not more than four persons eighteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency;
4. Any persons living with the family at the direction of a court; and
5. Twenty four hour supervised living of persons with physical or mental disabilities, but not including group homes for drug and alcohol rehabilitation or halfway houses for persons adjudicated by a court. Such residential facilities shall be licensed by the State of South Dakota and proof of such licensing shall be required prior to zoning certificate approval.

FARM - A parcel of land used for agricultural purposes.

FARM IMPLEMENT DEALER - The use of any building or land area for the display and sale of new and used farm implements, including any warranty repair work and other repair service conducted as an accessory use.

FARMSTEAD - The area of a farm in which the out buildings sit and is normally protected by a grove(s) and not used for crops or grazing.

FARM STORE/FEED STORE - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agri-chemicals.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOR AREA - The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.

FREESTANDING SIGN (Ground Sign) - A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.

FRONTAGE - That side of a lot abutting on a street; the front lot line.

FRUIT/VEGETABLE CANNING AND PROCESSING - A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

GARAGE, PRIVATE - An accessory building designed or used for the storage of not more than four motor vehicles, excluding all commercial vehicles, owned and used by the occupants of the building to which it is accessory.

GARDEN CENTER - Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

GAS DISPENSING STATION - Any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories, or testing may be done. Gasoline pumps and islands shall be located more than 12 feet from the nearest property line.

GENERAL MANUFACTURING - Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.

GOLF COURSE - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters.

GRADE - The average elevation of the land around a building.

GRAIN TERMINAL - A facility for the storage of agricultural grains.

GREENHOUSE - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

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.

GROUNDWATER - Subsurface water that occurs in soils and geologic formations that are fully saturated.

HAZARDOUS MATERIAL - Any contaminant as defined in this ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022 as in effect on the date of publication of this ordinance.

HOME OCCUPATION - A home occupation is any occupation carried on by a member of the immediate family residing on the premises, in accordance with 11.12.

HOSPITAL - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

HOTEL, MOTEL, MOTOR COURT, MOTOR LODGE, OR TOURIST COURT - Any building

or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

JUNKYARD - Any lot, land, parcel or portion thereof, used for the storage, wrecking, dismantling, salvage, collection, processing, purchase, sale, or exchange of abandoned or discarded vehicles, goods, waste, and scrap materials, including but not limited to: two or more abandoned or inoperable motor vehicles, waste paper, rags, glass, tires, wood, lumber, appliances, machinery, or automotive and mechanical parts. A junkyard does not include operations entirely enclosed within buildings.

KENNEL - Any premise, or portion thereof, where dogs, cats, and other household pets are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

LANDSCAPED AREA/LIVING GROUND COVER - An area that is permanently devoted and maintained in blue grass/ creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

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

LOADING SPACE - A space within the main building or on the same lot for the standing, loading, or unloading of trucks.

LOT - A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, which may include one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this ordinance, and having its principal frontage upon a street or upon an officially approved place.

LOT AREA - The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE - A lot which abuts a street on two opposite sides (not a corner lot).

LOT, FRONTAGE - The length of the front lot line measured at the street right-of-way line.

LOT, INTERIOR - A lot other than a corner lot.

LOT LINE - A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three (3) feet to any lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the office of the County Register of Deeds; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the effective date of this ordinance.

MANUFACTURE OF: ACID, ALCOHOL, AMMONIA, ASPHALT, BLEACH, CEMENT, CHLORINE, DYESTUFFS, EXPLOSIVES, FERTILIZER, GLUE, GYPSUM, LIME, OILS, PLASTER OF PARIS, SHELLAC, SIZING, TURPENTINE OR YEAST, ETC - Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

MANUFACTURED HOME - A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

MAP, OFFICIAL ZONING - The map or maps, which are legally adopted as a part of the zoning ordinance, that delineate the boundaries of the zoning districts, show the location and size of public rights-of-way, public waterways, and the county limit lines.

MASSAGE ESTABLISHMENT - An establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision does not apply to:

1. Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.

2. Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.
3. Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.
4. Physical therapists licensed pursuant to SDCL Ch. 36-10.
5. Athletic trainers licensed pursuant to SDCL Ch. 36-29.
6. Massage therapists licensed pursuant to SDCL Ch. 36-35.
7. Chiropractors licensed pursuant to SDCL Ch. 36-5.

MINING - The development or extraction of a mineral from its natural occurrence or affected land. The term includes, but is not limited to, surface mining and surface operation, in-site mining, the reprocessing of tailing piles, the disposal of refuse from underground mining, and milling and processing located on land described in the application for a mining permit.

MORTUARY - A place for the storage of human bodies prior to their burial or cremation.

MOTEL - A motel is an establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. See (Hotel/Motel).

MOTOR VEHICLE - Any vehicle which is designed to travel along the ground or in the water and shall include but not be limited to automobiles, vans, buses, motorbikes, trucks, trailers, go carts, golf carts, boats, snowmobiles, and campers.

MOTOR VEHICLE REPAIR - Any building or premises involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

MOTOR VEHICLE, COMMERCIAL - Any vehicle which has more than 16 square feet of signage or which is adapted, designed, equipped, and used to perform a specific commercial function and which does not meet the definition of Motor Vehicle, Personal/Passenger as defined herein.

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully

affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

MOTOR VEHICLE, PERSONAL/PASSENGER - Any car, pickup-truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal/passenger travel and has not been externally altered with features not customary to personal usage.

MOTOR VEHICLE, RECREATIONAL - Any vehicle which is adapted, designed, and equipped to facilitate leisure time activities including but not limited to the following: ATVs, boats, snowmobiles, along with trailers to haul said vehicles; RVs and travel trailers.

MOTOR VEHICLE SALES, DISPLAY, AND RENTAL - The use of any building, land area, or premises, for the display, sale, or rental of new or used motor vehicles, and including any warranty repair work and other repair service conducted as an accessory use. The sale or display of inoperable motor vehicles is not allowable as part of this use category, see "JUNKYARD."

MOTOR VEHICLE SERVICE STATION - Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or 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. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than 12 feet from the nearest property line.

NEIGHBORHOOD UTILITY FACILITY - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings that exceed 120 square feet of roof area) necessary for conducting a service by a government, public utility or an interstate pipeline operator.

NUDE MODEL STUDIO - A place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other considerations. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:

1. A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.
2. A Student must enroll at least three days in advance of a class in order to participate.
3. No more than one nude or seminude model is on the premises at any time.

NUDE, NUDITY OR STATE OF NUDITY - Any of the following:

1. The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.
2. A state of dress that fails to opaquely cover a human anus, genitals, or a female breast below a point immediately above the top of the areola.

NONCONFORMING USE - A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this title, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

NON-PROFIT RELIGIOUS and APOSTOLIC ASSOCIATIONS - Religious and apostolic organizations as described in the United States Tax Code. "The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received."

NONSTANDARD 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 title 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 title.

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See (Greenhouse).

NURSING HOME - An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

OFFICE BUILDING - A building designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations. Broadcast stations, offices, and studios shall be considered to be office buildings; broadcast towers as defined in this title shall not be so considered.

OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

ON-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

OUTDOOR STORAGE - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of junkyard as defined herein.

PARKING SPACE - A hard-surfaced area, enclosed or unenclosed, sufficient in size to park one motor vehicle. A parking space must be provided an unobstructed means of access, and all spaces shall meet the minimum criteria as prescribed by the County's Highway Department.

PERMITTED USES - Any permissive, permitted special, or conditional use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSONAL SERVICES - Establishments primarily engaged in providing services involving the care of a person or their apparel. Including, but not limited to: laundry or dry cleaning, receiving station; garment services; coin-operated laundries; photographic and art studios; beauty shops; barber shops; shoe repair; reducing salons and health clubs; clothing rental.

PLACE OF WORSHIP - A structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features.

PLANNED DEVELOPMENT - An area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained according to plan as a single entity and containing one or more structures with appurtenant common areas.

PLANNING COMMISSION - The duly designated planning board of the municipality responsible for reviewing and approving applications for development and preparation of master plans and ordinances.

PRINCIPAL BUILDING - A building in which is conducted the primary or predominant use of the lot on which it is located.

PRINCIPAL USE - The primary or predominant use or building of any lot.

PRINTING PLANT - A commercial printing operation which makes reproductions involving the use of a printing press and the making of photographic plates.

PRIVATE CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

PROJECTING SIGN - A sign other than a wall sign which is attached to and projects from a structure or building face.

PROPERTY LINE - See (Lot Line).

PUBLIC SERVICE FACILITY - Government facilities and uses that provide an essential public purpose or service including, but not limited to: a police station, judicial court, fire station, ambulance service, transit or transportation transfer station, community center, public recreation facility, or office, but not including public utility or treatment stations, maintenance facilities, sanitary landfills or facilities for incarcerated persons.

PUBLIC UTILITY FACILITIES - See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings that exceed 120 square feet in roof area are allowable.

QUARRY - A surface excavation used for the removal of rock, stone, sand, gravel, and fill dirt for sale or use off-site and includes sifting, crushing, and washing and bagging.

QUARTER-QUARTER SECTION - A quarter of a quarter section as determined by the United States Rectangular Land Survey land survey system shall be considered a quarter-quarter section for purposes of these regulations. For purposes of these regulations, rights-of-way for public or private transportation shall not impact the completeness of a quarter-quarter section.

RECREATION FACILITY - A place designed and equipped for the conduct of entertainment, sports, leisure-time activities, and other customary and usual recreational activities, either active or passive. Related functions such as changing rooms or restrooms, and maintenance may be housed in buildings or structures.

RECREATION FACILITY, COMMERCIAL - A recreation facility operated as a business and open to the public for a fee.

RECYCLABLE MATERIALS - Materials or products that may be readily separated from the solid waste stream and may be used or reused as a substitute for raw materials or other items, including but not limited to, aluminum, paper, glass, steel, and plastic.

RECYCLING COLLECTION FACILITY - An established facility where recyclable materials are collected for shipment off site, with no processing such as grinding or crushing of the materials. Fully enclosed automated self-service aluminum collection machines not more than 750 square feet are considered recycling collection facilities regardless of whether they contain a crusher or grinder. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RECYCLING PROCESSING FACILITY - An established facility where recyclable materials are collected and/or processed for shipment off site, including processing operations such as grinding or crushing of the materials. No on-site sales of materials, nor salvage-type automobiles may be processed at these types of facilities. Facilities which handle recyclable

hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RESIDENCE - A permanent dwelling place.

RETAIL SERVICES AND TRADE - Establishments engaged in selling products, goods, or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services but does not include on-sale alcoholic beverage establishments.

RESTAURANT - An establishment where food and drink is prepared, served, and consumed primarily within the principal use.

ROOF SIGN - Any sign erected upon, against, or directly above a roof or on top of the parapet of a building.

ROOMING/BOARDING HOUSE - See (Boarding House).

SCHOOL, ELEMENTARY OR SECONDARY (HIGH SCHOOL) - Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

SEMINUDE - A state of dress in which clothing covers no more than the genitals, pubic region, and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

SETBACK/SETBACK LINE - That line that is the required minimum distance from any lot line that establishes the area within which the principal use must be erected or placed.

SHALLOW/SURFICIAL AQUIFER. An aquifer in which the permeable media (sand and gravel) starts near the land surface immediately below the topsoil.

The shallow aquifer is further defined as an aquifer within fifty (50) feet or less below the land surface within fifteen (15) feet or less of continuous overlying, extremely low permeability material, such as clayey till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this ordinance; or, the aquifer is greater than fifty (50) feet but less than one hundred (100) feet below the land surface with thirty (30) feet or less of continuous overlying low to extremely low permeability geological material that may be a combination of weathered and un-weathered till, shale, or till and shale.

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected

images. This definition does not include signs not exceeding 12 square feet for advertising the sale or lease of real estate, national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.

SIGN AREA - The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

SIGN FACE (DISPLAY SURFACE) - The entire area of sign on which copy could be placed. See ("Sign Area").

SIGN (OFF PREMISE) - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN (ON PREMISE) - A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

SIGN STRUCTURE - Any structure which supports, has supported, or is capable of supporting a sign.

SIGN, WALL - A sign attached to or erected against a wall of a building and projecting no more than twelve (12) inches with the face in a parallel plane to the plane of the building wall.

SLAUGHTERHOUSE - A facility for the slaughtering and processing of animals and the refining of their by-products.

SMALL ACCESSORY USE SOLAR ENERGY SYSTEM - A single residential or small business- scale solar energy conversion system (photovoltaic cell) consisting of roof panels or ground mounted solar panels or arrays and associated control or conversion electronics not greater than one (1) acre in total lot coverage.

(Amended: Ord. No. 2024-03, 11-07-24)

SOLID WASTE TRANSFER FACILITY - A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

SPECIFIED ANATOMICAL AREAS - Any of the following:

1. A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.
2. Male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES - Any of the following:

1. Human genitals in a state of sexual stimulation or arousal.
2. Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.
3. Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.
4. Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.

STABLE - Any premise or part thereon where horses or any equine animal are maintained, boarded, bred, trained or cared for in return for remuneration, or are kept for the purpose of sale.

STOCKYARDS - A facility for the temporary confinement and marketing of animals.

STORY - Story is 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, cellar, or unused underfloor space is more than six (6) feet above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

STREET - A public way which affords the principal means of access to abutting property.

STREET, ARTERIAL - A principal traffic artery, more or less continuous across the county, which acts as a principal connecting street with state and federal highways and includes each street designated as an arterial street on the Major Street Plan.

STREET, COLLECTOR - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.

STREET, LOCAL - A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.

STRUCTURAL ALTERATION - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or any complete rebuilding of the roof or the exterior walls.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground with a

fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures, include buildings, walls, signs, docks, dams, manufactured homes, and sheds. For the purpose of these regulations, fences are not considered structures.

(Amended: Ord. No. 2025-05, 09-24-25)

TANK FARM - An open air facility containing a number of above-ground, large containers for the bulk storage in liquid form of petroleum products.

TELECOMMUNICATIONS TOWER - A self-supporting lattice, guyed-lattice, or monopole structure which supports wireless communications facilities. The term includes new and existing towers that are used for services such as microwave, common carrier, cellular telephone, personal communication services, two-way radio paging, and other similar services. The term telecommunications tower does not include amateur radio operators' equipment, as licensed by the Federal Communications Commission.

TEMPORARY CONSTRUCTION FACILITIES - Lots, structures, or portions thereof, where construction or mining support facilities are constructed or placed at or near a job site to provide materials and support mechanisms for construction or mining projects. The term shall include, but is not limited to, portable offices, signage, trailers, stationary and mobile equipment, and scales. Common uses include portable concrete, processing, or asphalt plants, job site trailers, and areas for equipment parking, material storage, or stockpiling. The term temporary shall be flexible yet is generally tied to a related construction project with defined start-up and completion times. For purposes of this Ordinance, such facilities are not considered Temporary Uses regulated by Chapter 11.18.

(Amended: Ord. No. 2019-01, 08-13-19)

TEMPORARY SIGN - A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic, wallboard, or other like materials, and intended to be displayed for a limited period of time.

TELECOMMUNICATIONS TOWER HEIGHT - The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.

TELECOMMUNICATIONS TOWER SITE - The telecommunications tower site shall be the lot of record for which the telecommunications tower is located.

TRAVEL TRAILER - Means any of the following:

1. **Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, 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. Motor-Home. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as any integral part of a self-propelled vehicle.
- 4. Camping Trailer. A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

TREE, REQUIRED - A tree which is required by this ordinance and meets or exceeds the minimum specifications according to tree type.

USE, ACCESSORY - See (Accessory Building or Use).

USE, PERMITTED - A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in which such use is located.

USE, PRINCIPAL - A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use includes off-premise advertising.

WAREHOUSE - A building used primarily for the storage of goods and materials.

WASTE - Any garbage, refuse, sludge from a waste treatment plant, waste supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or 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 material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

WATER TREATMENT FACILITY - A facility for the collection, treatment, storage, and distribution of potable water from the source of supply to the consumer.

WHOLESALE MERCHANDISING /WHOLESALE 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.

WIND ENERGY CONVERSION SYSTEM (WECS) - Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.

WIRELESS COMMUNICATIONS FACILITIES - Any cables, wires, lines, wave guides, antennas, antenna arrays, and any other equipment associated with the transmission or reception of telecommunications signals which a person seeks to locate or have installed upon or near a telecommunications tower or antenna support structure.

YARD, FRONT - A yard across the full width of the lot extending from the front line of the

main building to the front line of the lot.

YARD, REAR - A yard extending a full width of the lot between a principal use and the rear lot line.

YARD, REQUIRED FRONT - The required front yard shall extend across the front of a lot between the said property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.

YARD LINE. See (Building Line).

YARD, REQUIRED REAR - The required rear yard shall extend across the rear of a lot between the said property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

YARD, REQUIRED - Shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this title.

YARD, REQUIRED SIDE - The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.

YARD, SIDE - A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line.

ZONE - A specifically delineated area or district of McCook County within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.