

ARTICLE I.
GENERAL PROVISIONS

CHAPTER 1.01 TITLE AND APPLICATION.

Section 1.01.01 Title.

This ordinance shall be known and referred to as “The Zoning Ordinance of the City of Lake Preston, South Dakota.”

Section 1.01.02 Jurisdiction.

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

Section 1.01.03 Purpose and Intent.

The Zoning Ordinance is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

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

- I. To safeguard and enhance the appearance of the community, including natural amenities.
- J. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the comprehensive land use plan.

CHAPTER 1.02 ORDINANCE PROVISIONS

Section 1.02.01 Provisions of Ordinance Declared to Be Minimum Requirements.

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

Section 1.02.02 Violations/Penalties for Violation.

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

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

Section 1.02.03 Separability Clause.

Should any article, chapter, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the

ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

Section 1.02.04 Repeal of Conflicting Ordinances.

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

Section 1.02.05 Effective Date.

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

Section 1.02.06 Catch Heads.

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

CHAPTER 1.03. OFFICIAL ZONING MAP

Section 1.03.01 Official Zoning Map.

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

The Official Zoning Map shall be identified by the signature of the Mayor of the City attested by the City Finance Officer under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 397-02 of the City of Lake Preston, State of South Dakota," together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the City Finance Officer.

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

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

areas, buildings, and other structures in the City.

Section 1.03.02. Rules Where Map Designation Uncertain.

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

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

Section 1.03.03 Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Lake Preston shall be automatically placed into the “A” Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations.

Section 1.03.04 Changes and/or Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Finance Officer, and bearing the seal of the City under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Lake Preston, State of South Dakota.”

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

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

ARTICLE II DISTRICT REGULATIONS

CHAPTER 2.01 APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01 Applicability of Regulations.

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

Section 2.01.02 Compliance; Generally.

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

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

No building or other structure shall hereafter be erected or altered:

- To exceed the height or bulk;
- To accommodate or house a greater number of families;
- To occupy a greater percentage of lot area;
- To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.
- No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

CHAPTER 2.02 NON-CONFORMING USES

Section 2.02.01 Intent.

Within the districts established by this Ordinance or amendments that may later be adopted there exist: lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the

intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

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

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance. And upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 2.02.02 Repairs and Maintenance

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

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

Section 2.02.03 Uses and Structures.

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

1. Whenever, a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.

2. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding 50 percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.
3. When a nonconforming use or structure is discontinued for a period of 1 year, it shall not be continued unless in conformance with the requirements of this Ordinance and SDCL 11-6-39.
4. Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this Ordinance, but shall not be extended outside each structure.
5. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.
6. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the existing Type I and/or Type II Manufactured Home, then application must first be made to the City Planning and Zoning Commission for special permit.
7. "Non-Conforming Land Use" shall be deemed to include non-conforming manufactured home courts existing at the time of the adoption of this Ordinance, and the substitution or replacement of Type I and Type II Manufactured Homes to said manufactured home court shall not be deemed to have changed the use thereof from a non-conforming to a conforming use.
8. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning and Zoning Commission as set forth elsewhere in this Ordinance.

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

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

Section 2.02.05 Non-conforming Lots of Record.

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

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

CHAPTER 2.03 DISTRICT REGULATIONS

Section 2.03.01 Generally

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

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

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

Deviation from zoning district lot, yard, and related requirements, and deviation from city-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.04 of these regulations.

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

Section 2.03.02 Zoning Districts.

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

A. “A” Agricultural District

The purpose of the “A” Agricultural District is to:

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

B. “C1” Central Commercial District

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

C. “FP” Flood Plain District

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

D. “HC” Highway Commercial District

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

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

D. “I” Industrial District

The purpose of the “I” Industrial District is:

1. To establish and maintain high standards of site planning, architecture, and landscape design that will create an environment attractive to the most discriminating industries and research and development establishments.
2. To provide and ensure the continuity of locations for industries that can operate on small sites with minimum mutual adverse impact.
3. The provisions of this section shall be administered and enforced in a manner to clearly support objectives of the, community organizations and civic groups to locate industrial development in the City of Lake Preston.
4. To reserve appropriately located areas for industrial and related activities.
5. To protect areas appropriate for industrial uses from intrusion by inharmonious uses.
6. To protect residential and commercial properties and to protect nuisance-free, non-hazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck and rail traffic, and noxious fumes, radiation and other hazards incident to certain industrial uses.
7. To provide opportunities for certain types of industrial uses to concentrate in mutually beneficial relationships to each other.
8. To provide adequate space to meet the needs of industrial development, including off-street parking and truck loading areas and landscaping.

9. To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants on nearby uses.
10. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of building of excessive size in relation to the amount of land around them.

E. “R1” Single-Family Residential District

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

F. “R2” General Residential District

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

G. Purpose of Residential Districts, Generally

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

CHAPTER 2.04 “A” - AGRICULTURAL DISTRICT

Section 2.04.01. Permitted Uses.

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

1. Any form of agriculture activity and related farm buildings, but excluding feed lots and sales or auctions yards or barns;
2. Site-built single-family dwellings;
3. Modular homes;
4. Public parks and recreation areas;

Section 2.04.02 Permitted Accessory Uses:

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

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district.
2. Roadside stands for sales of agricultural products grown or produced on the premises.

Section 2.04.03 Conditional uses:

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

1. Airports;
2. Cemeteries;
3. Commercial or private recreation areas not normally accommodated in commercial areas such as golf courses, campgrounds, drive in theatres, riding stables, race tracks, swimming pools, etc.;
4. Private clubs;
5. Type I manufactured home;
6. Type I manufactured home without permanent perimeter foundation;

7. Public buildings or facilities erected or established and operated by any governmental agency;
8. Telecommunication facilities;
9. Home occupations;
10. Utility substations;
11. Veterinarian offices and animal hospitals;
12. Nurseries and greenhouses
13. Fisheries services;
14. Game propagation areas;
15. Sewage treatment plants, but not within 80 rods of a residence;
16. Extraction of sand, gravel, minerals and petroleum or natural gas; and
17. Uses which in the opinion of the Board of Adjustment are not of a conflicting nature or will not be detrimental to the environment of the District.

Section 2.04.04. Prohibited Uses:

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

Section 2.04.05. Area Regulations.

1. **Minimum Lot Requirements** - The minimum lot area for permitted uses shall be one (1) acre or forty three thousand five hundred sixty (43,560) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. Uses permitted by conditional use shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** - Permitted uses shall have a minimum front yard of seventy-five (75) feet, minimum side yards of thirty (30) feet, and a minimum rear yard of fifty (50) feet. Uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.
3. **Maximum Lot Coverage**: The maximum lot coverage for all buildings and structures shall not exceed ten (10) percent of the total lot area.

4. **Height Regulations:**

Single-family Dwellings – Two and one-half (2-½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses -- Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

CHAPTER 2.05 “R1” SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 2.05.01 Permitted Uses:

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

1. Site-built single-family dwellings;
2. Modular homes;
3. Public park and recreation areas;
4. Churches and parish houses;

Section 2.05.02. Permitted Accessory Uses:

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

1. Accessory uses and structures customarily incidental to permitted uses, except stables;

Section 2.05.03 Conditional Uses:

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

1. Bed and breakfast establishments;
2. Type I manufactured homes;
3. Public and private schools;
4. Two-family dwellings;
5. Multiple-family dwellings;
6. Home occupations;
7. Public buildings or facilities established and operated by any governmental agency;

8. Hospitals, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance;
9. Licensed commercial day care facilities;
10. Utility substations;
11. Commercial storage buildings used exclusively for storage and not for performance of any other services.

Section 2.05.04. Prohibited Uses:

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

Section 2.05.05 Area Regulations:

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

Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.

4. **Height Regulations:**

Single-Family Dwellings -- Two and one-half (2-½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses -- Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

CHAPTER 2.06 “R2” GENERAL RESIDENTIAL DISTRICT

Section 2.06.01 Permitted Uses

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

1. Any permitted use in the “R1” District;
2. Two-family dwellings;
3. Multiple-family dwellings
4. Type I manufactured homes.

Section 2.06.02 Permitted Accessory Uses:

1. Accessory uses and structures customarily incidental to permitted uses.

Section 2.06.03 Conditional Uses:

The following uses may be permitted as a conditional use in the “R2” General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Any conditional use permitted in the “R1” District; except two-family dwellings, multiple-family dwellings, and Type I Manufactured homes which are a permitted uses in this district;
2. Manufactured Home parks
3. Type II manufactured homes located within manufactured home parks
4. Type I manufactured homes without a permanent foundation

Section 2.06.04 Prohibited Uses:

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "R2" General Residential District.

Section 2.06.05 Area Regulations.

1. **Minimum Lot Requirements:** The minimum lot area for single-family residences shall be seven thousand (7,000) square feet. Multiple-family dwelling units up to four units shall have a minimum lot area of six thousand (6,000) square feet for the first dwelling unit plus two thousand four hundred (2,400) square feet for each additional dwelling

unit. Multiple-family apartments, condominiums and townhouses for single-family occupancy of more than four dwelling units shall have a minimum lot area of thirteen thousand two hundred (13,200) square feet for the first four dwelling units plus one thousand eight hundred fifteen (1,815) square feet for each additional dwelling unit. The minimum lot width for single-family residences shall be fifty (50) feet. The minimum lot width for two-family and multiple family residences shall be one hundred (100) feet. The minimum lot depth width for residences shall be one hundred twenty (120) feet. Other permitted uses and uses permitted by conditional use shall have a minimum lot area, width, and depth as determined by the Board of Adjustment. All lots shall front on and have ingress and egress by means of a public right-of-way.

2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.
3. **Minimum Yard Requirements:** Single-family residential dwellings shall have a minimum **front yard of thirty (30) feet**, measuring the same from the most outward point of the building. In the case of corner lots, both frontage yards shall be provided according to the pattern of existing structures. Single-family residential dwellings shall have **minimum side yards of seven (7) feet, and a minimum rear yard of twenty-five (25) feet**, however, accessory structures may be placed within five (5) feet of an alley. Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.
4. **Height Regulations:**

Single-Family Dwellings – Two and one-half (2-½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses – Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

Section 2.06.06 Manufactured Home Park Minimum Standards.

Manufactured home parks shall meet the following minimum standards:

1. Streets.

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

2. Open Space or Buffer Zone.

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

3. Lot Area.

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

4. Density.

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

5. Spacing and Yard Requirements.

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

a. Front Yard.

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

b. Side and Rear Yards.

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

c. Exceptions to minimum yard requirements.

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

A deck may project into a required side or rear yard provided it is located no closer

than four feet to any other structure.

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

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

d. **Maximum Lot Coverage:**

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

6. Parking

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

7. Refuse Collection

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

8. Recreation Area

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

9. On-Site management

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

10. Water Supply and Distribution System and Sewage Disposal:

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

11. Tie Down Requirements

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

12. Maximum Age Limitation:

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

13. Expansion.

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

14. Building/Moved-in Building Permit Required

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

15. Skirting

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

16. Storm Shelter

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

17. Existing Courts

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

18. Site Lighting

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

20. Registration

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

Section 2.06.07 Application Procedure:

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

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

CHAPTER 2.07 “C1” CENTRAL COMMERCIAL DISTRICT

Section 2.07.01 Permitted Uses:

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

1. Retail and wholesale sales;
2. Finance, insurance and real estate services;
3. Business services excluding any warehousing and storage services;
4. Churches, welfare and charitable services; business associations, professional membership organizations, labor unions, and similar labor organizations, and civic, social and fraternal associations;
5. Eating establishments;
6. Communication and utility uses;
7. Public buildings and grounds;
8. Service establishments;
9. Professional, governmental and education services;
10. Bar or tavern;
11. On/Off sale liquor establishments;
12. Printing and publishing establishments;
13. Offices;
14. Parking lot and/or parking garages;
15. Theaters, bowling alleys, and pool halls;
16. Museum;
17. Apartments using the upper floors of commercial buildings; and
18. Mortuaries

Section 2.07.02 Permitted Accessory Uses:

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

1. Accessory buildings and uses customarily incidental to permitted uses.

Section 2.07.03 Conditional Uses.

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

1. Adult uses;
2. Bed and breakfast;
3. Hotels and motels;
4. Licensed day care centers;
5. Lumberyards;
6. Garages, repair shops, and service stations;
7. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;
8. Apartments;
9. Other uses, which in the opinion of the Board of Adjustment are of the same general character and not detrimental to permitted uses in the “C1” District as outlined,

Section 2.07.04 Prohibited Uses:

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

Section 2.07.05 Area Regulations.

1. **Minimum Lot Requirements:** Permitted uses shall have a minimum lot area of 3,500 square feet and a minimum lot width of twenty-five (25) feet. Uses permitted by conditional use shall have a minimum lot area and width as determined by the Board of Adjustment.

2. **Minimum Yard Requirements:** No yards shall be required in the “C1” Central Commercial District provided, however, that all buildings located on lots adjacent to a residential district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent. Uses permitted by conditional use shall have a minimum yard requirement as determined by the Board of Adjustment.
3. **Maximum Lot Coverage:** The maximum lot coverage for all permitted uses shall not exceed ninety (90) percent. The maximum lot coverage for all uses permitted by conditional use shall be as determined by the Board of Adjustment.
4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed fifty (50).

CHAPTER 2.08 “HC” HIGHWAY COMMERCIAL DISTRICT

Section 2.08.01 Permitted Uses:

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

1. None

Section 2.08.02 Conditional uses:

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

1. Horticulture and the raising of field crops;
2. Garages, repair shops, and service stations;
3. On-site signs;
4. Utility substations;
5. Wholesale or retail sales of: lumber and other building materials, farm equipment, motor vehicles, marine crafts, manufactured homes, trailers, farm and garden supplies, fuel and ice; motor vehicles and automobile equipment; drugs, chemicals, all allied products; dry goods and apparel; groceries, and related products; electrical goods, hardware, plumbing, heating and equipment and supplies; machinery, equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials;
6. General farm products (other than animals), household goods, and equipment maintenance;
7. Motor freight terminals, garaging and equipment maintenance;
8. Mortuaries;
9. Contract construction services;
10. Off-site signs;
11. Truck or bus terminal;
12. Wholesale merchandising or storage warehouse;
13. Hotel/motel;

- 14. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;
- 15. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors.
- 16. Other uses which in the opinion of the Board of Adjustment are of the same general character and not detrimental to permitted uses in the “HC” District as outlined,

Section 2.08.03 Prohibited Uses:

All users and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “HC” District.

Section 2.08.04 Area/Construction Regulations.

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

CHAPTER 2.09 “I” – INDUSTRIAL DISTRICT

Section 2.09.01 Permitted Uses:

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

1. None

Section 2.09.02 Permitted Accessory Uses:

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

1. Buildings and structures customarily incidental to permitted uses;
2. Caretaker and watchman quarters.

Section 2.09.03 Conditional Uses:

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

1. All conditional uses permitted in the “HC” Highway Commercial District;
2. Storage plants, lumber yards, distributing stations and warehouses;
3. Light assembly work, machine shops doing assembling or shaping and light cutting and sampling.
4. Woodworking shops or plants.
5. Grain elevators;
6. Automotive body repair;
7. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment;
8. Slaughterhouse;
9. Crematory;
10. Explosive manufacture or storage;
11. Fertilizer manufacture;
12. Incineration or reduction of garbage, dead animals, fat, or refuse;

- 13. Soap manufacture;
- 14. Tanning of leather, rawhide or skins;
- 15. Livestock sales or auction barns and yards;
- 16. Any industrial use, other than those permitted by conditional use, which can meet the performance standards listed in section 2.09.06.

Section 2.09.04 Prohibited Uses:

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

Section 2.09.05 Area Regulations:

- 1. **Minimum Lot Requirements:** The minimum lot area for permitted uses shall be forty three thousand five hundred and sixty (43,560) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. The minimum lot area and width for uses permitted by conditional use shall be as determined by the Board of Adjustment.
- 2. **Minimum Yard Requirements:** Permitted uses shall have a minimum front yard of fifty (50) feet; minimum side yards of twenty (20) feet, except when bordering a residential district, then a side yard should be thirty (30) feet and such side yards shall be landscaped or fenced in a suitable manner to buffer residential uses; and a minimum rear yard depth of thirty five (35) feet shall be required which abut a residential district and such rear yard shall be landscaped or fenced in a manner to buffer residential uses. All other rear yards shall be twenty-five (25) feet. The minimum yard requirements for uses permitted by conditional use shall be as determined by the Board of Adjustment.

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

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

- 3. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed seventy-five percent (75%) of the total lot area. The maximum lot coverage for uses permitted by conditional use shall be as determined by the Board of Adjustment.

4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed forty-five (45) feet.

Section 2.09.06 Performance Standards

1. **Noise.** All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. **Air Pollution.** State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation, or property.
3. **Odor.** The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. **Glare, Heat or Radiation.** Every use shall be so operated that there is no emission or heat, glare, or radiation visible or discernable beyond the property line.
5. **Vibration.** Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. **Sewage and Liquid Wastes.** No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
7. **Fire Hazard.** All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.
8. **Physical Appearance.** All operations shall be carried on within an enclosed building except that new or operable equipment and waste materials stored in enclosed containers, not readily visible from the street, may be displayed or stored in the open.

CHAPTER 2.10 FP FLOOD PLAIN DISTRICT

Section 2.10.01 Intent

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

Section 2.10.02 Permitted Use:

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

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

Section 2.10.03 Uses Permitted on Review

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

1. Any structures or filling of land permitted shall be of a type not appreciably damaged by floodwaters;
2. Any use permitted shall be in harmony with and not detrimental to the uses permitted in the adjoining district;
3. Any permitted structures or the filling of land shall be designed, constructed, and placed on the lot so as to offer the minimum obstruction to and effect upon the flow of water;
4. Any structure, equipment or material permitted shall be firmly anchored to prevent it from floating away and thus damaging other structures and threatening to restrict bridge openings and other restricted sections of the stream;

5. The storage or processing of materials that are in time of flood buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited.
6. Any structure shall be constructed on fill so that the first floor is one (1) foot above the regulatory flood-protection elevation. The fill, which shall include the access to the structure from a public street, shall have an elevation no less than one foot below the regulatory flood protection elevation for the particular area and the fill shall extend no less than ten (10) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make compliance with this provision impractical or in other special circumstances, the Planning and Zoning Commission may authorize other techniques for elevation.
7. Any structure may, in special circumstances, be protected by other flood proofing measures to a point at or above the regulatory flood protection elevation.
8. Where in the opinion of the Planning and Zoning Commission topographic data, engineering and other studies are needed to determine the effects of flooding on a proposed structure or fill and/or the effect of the structure or fill on the flow of water, the Planning and Zoning Commission may require the applicant to submit such data.
9. The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind by the Planning and Zoning Commission or by any officer or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.
10. There shall be no basements constructed in the flood plain.

Section 2.10.04 Area, Height, and Parking Regulations

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

ARTICLE III ADMINISTRATION

CHAPTER 3.01 GENERAL

Section 3.01.01 Permits Required.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Administrative Official. The Administrative Official except in conformity with the provisions of this Ordinance shall issue no permit, unless he received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this Ordinance.

Section 3.01.02 Applications.

All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this Ordinance. Such plans and data accompanying the permit shall be final and conclusive, and a deviation therefrom shall require a new permit.

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

Section 3.01.03 Fee Schedule.

The City Council shall by resolution establish a schedule of fees, charges, and expense and a collection procedure for building permits, conditional use permits, variances, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees may be altered or amended only by the City Council.

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

Section 3.01.04 Issuance of Permits.

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

Section 3.01.05 Expiration of Use Permit.

If the work desired in any use permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected.

If the work described in any use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained.

Section 3.01.06 Building Permits.

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this Ordinance including use, height, number of occupants, lot area, off street parking or yard requirements, shall occur without a building permit issued by the Administrative Official. Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, or construction set forth in such approved plans and specifications. Any use, arrangement, or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.

1. The landowner requesting the Building Permit shall complete an application for a building permit, accompanied with the appropriate fee, available from the Administration Official. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - A. Applications for a site shall accompany building permits plan drawn to scale with the following information indicated in order to determine compliance with this Ordinance.
 - i. A site plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.

- ii. The location of the said lot with respect to existing rights-of-way and adjacent lots.
 - iii. A letter of certification stating that the lot to be built upon has been accurately surveyed. The Administrative Official may waive this requirement in the event lot markers (pins) have been located or adjoining landowners.
 - iv. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
 - v. The Administrative Official in cases of permits to alter the interior of any existing structure may waive any of the above requirements.
2. One copy of the application shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. Then Administrative Official for city records shall retain one copy of the application, similarly marked.
3. The Administrative Official shall then, if the applicant is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.
4. Building permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.
5. With application for a building permit, the site must be clearly staked out and/or the Administrative Official will examine plans that clearly indicate the structure to be erected or remodeled, or alterations of the exiting structure.
6. The Administrative Official will again examine the site after the completion of the foundation and rafters of the structure and will grant permission to proceed if complied with application.

CHAPTER 3.02. ADMINSTRATIVE OFFICIAL

Section 3.02.01 Establishment and Purpose.

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

Section 3.02.02 Duties.

The powers and duties of the Administrative Official shall be as follows:

1. Issue all building permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Provide public information relative to all matters arising out of this Ordinance.
8. Forward to the Planning and Zoning Commission all applications for amendments to this Ordinance.
9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this Ordinance.
10. Initiate, direct, and review, from time to time, a study of the provisions of this Ordinance, and to make such reports available to the Planning and Zoning Commission. The Administrative Official shall receive applications for Building Permits, Conditional Uses,

Variances, and Zoning Amendments.

- A. For building permits, the Administrative Official shall approve the application only in accordance with the provisions of the this Ordinance.
- B. For Conditional Uses and Variances, the Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or approve said application.
- C. For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning and Zoning Commission and City Council.

3.02.03 Powers.

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

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

CHAPTER 3.03 BOARD OF ADJUSTMENT

3.03.01 Establishment.

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

Section 3.03.02 Procedures for Meetings.

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

The Board of Adjustment shall keep minutes of its meetings and proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed

in the office of the City Finance Officer of the City of Lake Preston, South Dakota and shall be a public record.

Section 3.03.03 Powers and Duties of Board of Adjustment.

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

1. Administrative Review:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administration Official in the enforcement of this Ordinance.
- B. To hear and decide appeals to decisions made by the Administrative Official regarding Zoning Permits.

i. Conditional Uses:

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

ii. Variances:

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

Section 3.03.04 Hearings; Appeals; Notice:

Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer of the governing body of the city affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days of such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Administrative Official or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Official Zoning Map. At the hearing, any party may appear in person or by agent or attorney.

Section 3.03.05 Stay of Proceedings

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

CHAPTER 3.04 PROCEDURES FOR CONDITIONAL USES, VARIANCES AND ZONING AMENDMENTS

Section 3.04.01 Conditional Uses

Conditional Uses are allowed for certain uses in some zoning districts. Uses not listed within the individual zoning districts as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

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

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A Conditional Use Permit shall not be granted by the Board of Adjustment unless and until:
 - A. The landowner requesting the Conditional Use Permit shall complete an application for a Conditional Use Permit, available from the Administrative Official. Any required attachments and fees as in Section 3.01.03 shall further accompany the application. The written application for a conditional use shall indicate the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, update or corrected information shall accompany the application for a Conditional Use Permit.

- B. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval of or disapproval of the application.
- C. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alley) by mail at the expense of the applicant, at least one week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.
- D. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- E. The Board of Adjustment shall rule that it is empowered under the section of this ordinance described in the application to grant the Conditional Use, and that the granting of the Conditional Use will not adversely affect the public interest; and
- F. Before any Conditional Use shall be issued, the Board of Adjustment shall make a written finding certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - i. Utilities, refuse, and service areas, with reference to locations, availability, and compatibility;
 - ii. Screening and buffering with reference to type, dimensions, and character;
 - iii. Required yards and other open space; and
 - iv. General compatibility with adjacent properties and other property in the district.
 - v. Entrance and exit to property and proposed and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - vi. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties.
 - vii. Off-street parking and loading areas where required, with particular attention on effects of the conditional use on adjoining properties and properties generally within the district.

2. In order to preserve the intent of this Ordinance and to protect the public interest, the Board of Adjustment may attach conditions to a Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as the original applicant complies with any terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment.
3. Approval of any application for a Conditional Use Permit shall be by a two-thirds (2/3) majority (5 votes) of all members of the Board of Adjustment.

Section 3.04.02 Variances.

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

The following procedure for requesting a Variance shall be followed:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:
 - A. An application for Variance, available from the Administrative Official, shall be completed by the landowner requesting the variance and shall be accompanied by any required attachments and fees as in Section 3.01.03. The written application for a variance shall indicate the section of this Ordinance under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a variance.
 - B. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval or disapproval of the application.

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

- H. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and
- I. Approval of any variance shall be by a two-thirds (2/3) majority (5 votes) of all members of the Board of Adjustment.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Chapter 1.02, Section 1.02.02 of this Code.

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

Section 3.04.03 Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official:

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.
2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.
3. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

Section 3.04.04 Appeals:

Any persons, or any board, taxpayer department, board, or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of South Dakota.

Section 3.04.05 Zoning Amendments.

Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the City Planning and Zoning Commission, as provided herein, the City Council may change zoning district boundaries, use groups, or the regulations established by this Ordinance. A proposed change of zoning district boundaries or regulations may be initiated by the City Planning and Zoning Commission, City Council, or by application of one or more of the owners of property within the area requested to be changed. However, no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published once ten (10) days prior to the date of the meetings as provided in South Dakota Compiled Laws Chapter 11-4, and its and Amendments. Unless otherwise provided for in these regulations, any change in these regulations, shall require City Council approval of an ordinance describing said changes. The City Council may not consider said ordinance until the Planning and Zoning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting a Zoning Amendment shall be followed:

1. The landowner or other person(s) requesting the Amendment shall complete an application for Amendment, available from the Administrative Official. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning and Zoning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:
 - A. Any required attachments and fees, including Registered or Certified Mail costs in Section 3.01.03; and
 - B. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for enforcement of this Ordinance.
 - C. The Administrative Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning and Zoning Commission for their review.
 - D. The Administrative Official shall set the date, time, and place for a joint public hearing to be held by the Planning and Zoning Commission and City Council. The Administrative Official shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within 250 feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one week before the public hearing.

- E. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning and Zoning Commission.
- F. The Planning and Zoning Commission shall either recommend or not recommend approval of the amendment to the city council.
- G. The City Council shall either approve or not approve the ordinance describing the proposed changes to this Ordinance, in accordance with standard procedures for reading, approval, publication, and effective date.
- H. When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds of the City Council.
 - i. Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within 250 feet of the area affected by the amendment.

**ARTICLE IV
SUPPLEMENTAL REGULATIONS**

CHAPTER 4.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

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

CHAPTER 4.02 FENCES

Section 4.02.01 Construction Limitations

1. Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard, provided that no solid fence, wall or hedge extending past the building setback into the front yard and side yard setback shall not exceed three (3) feet in height above the ground level, and fences of a chain-link material extending past the building setback into the front yard shall not exceed four (4) feet in height above the ground level. However, if the fence, wall or hedge running parallel to the street is further than forty (40) feet from the street line, it may be seven (7) feet high.
2. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the city limits of this city any fences of any character or material, without first securing permission from the Administrative Official. Further, no such fence of any kind shall be built closer than one foot to the inside sidewalk line or street right-of way, and no electric fence or fence with barbed wire may be constructed in any residential district within the city limits. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six feet from the ground.
3. Fences that are adjacent to alleys shall be set back ten (10) feet from the street/boulevard right-of-way.
4. Fences are to be constructed a minimum of two (2) feet off of the property line, if lot markers (pins) have not been located or the property has not been properly surveyed.
5. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.

CHAPTER 4.03 ACCESSORY BUILDINGS

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.
3. No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five (5) feet of any other building.
4. No accessory building may be used for residential dwelling purposes at any time.
5. Residential Districts.

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

6. Commercial and Industrial Districts.

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

Permitted uses:

| Principal Use | Permitted Accessory Uses |
|---|--|
| Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers – Siding and roofing material of a type customarily used on site constructed residence is recommended. Galvanized steel or steel panel may be used only after approval of the Board of Adjustment. Galvanized steel or steel panel is not to include ribbed steel commonly found in the construction of quonsets. | 1. Private garages. |
| | a. Attached garages shall be limited to maximum dimensions of thirty (30) feet by forty-eight (48) feet and conform to the design of the house. |
| | b. Unattached garages shall be limited to maximum sidewalls of twelve (12) feet; maximum dimensions of thirty (30) feet by forty-eight (48) feet; and a maximum of 4/12 roof pitch or to conform to the design of the house. |
| | 2. Buildings or structures for customary residential storage purposes not over 10 feet in height and not exceeding 150 square feet in gross floor area. |
| | 3. Readily moveable sports, recreation, or outdoor cooking equipment. |
| 4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved. | |
| 5. Home occupations but only as defined herein. | |

| Permitted uses: | |
|---|---|
| Principal Use | Permitted Accessory Uses |
| Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers | 6. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan. 7. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance. |
| Churches, Convents and Monasteries | 1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use. |
| All special exceptions | 1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use |
| All other items | 1. No accessory uses permitted. |

CHAPTER 4.04 SIGNS AND OUTDOOR ADVERTISING.

Section 4.04.01 On – and Off –Site Signs:

1. No private sign shall be erected or maintained which:
 - A. Creates a hazard due to collapse, fire, collision, decay, or abandonment; or
 - B. Creates traffic hazards, by either:
 - i. Confusing or distracting motorists; or
 - ii. Impairing the driver’s ability to see pedestrians, obstacles or other vehicles, or
 - iii. Impairing the driver’s ability to see and interpret any official traffic sign, signal or device; or
 - iv. Creates a nuisance to persons using a public right-of-way; or
 - v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement
2. Signs shall be permitted in all zoning districts, subject to the following provisions:
 - A. Wall signs may be located anywhere on the wall of a building.
 - B. Freestanding signs shall not project over public property.
 - C. Freestanding signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection.
 - D. Each sign in the incorporated limits of Lake Preston shall at least meet the standards

established by the South Dakota Department of Transportation.

- E. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefore.
- 3. The Administrative Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with National Building Code relating to outdoor advertising.

CHAPTER 4.05 PARKING

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

No off-street parking of motor vehicles, recreational vehicles, watercraft or trailers should be permitted in the required front yard of any residence except as follows:

- 1. Upon a driveway providing direct access to the garage or rear yard;
- 2. Upon any other driveway provided that it is no wider than twenty-two (22) feet;
- 3. Upon the yard area between the driveway and the nearest side lot line.

No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 4.05.02 Parking and Storage of Certain Vehicles:

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

Section 4.05.03 Off-Street Parking Requirements:

Except in the C1 Central Commercial District, off-street motor vehicle parking and loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off-street Parking and Loading Requirements below. In the event the minimum number of spaces specified cannot be reasonably provided on the same lot as the principal use for which the spaces are required, the Planning and Zoning Commission may permit such spaces to be provided on other off-street property within four hundred (400) feet of the entrance to such principal use.

| <u>USE OR STRUCTURE</u> | MINIMUM OFF-STREET PARKING REQUIREMENTS | MINIMUM OFF-STREET LOADING REQUIREMENTS |
|---|---|--|
| Bed & Breakfast | One (1) space for each guest room | None |
| Bowling Alleys | Four (4) spaces per alley | One (1) space per establishment |
| Churches | One (1) space for each four (4) seats in the main seating area | None |
| Eating & Drinking Places | One (1) space for each three (3) customer seating spaces | One (1) space per establishment |
| Hospitals | One (1) space for each three (3) beds | Three (3) spaces per establishment |
| Hotels/Motels | One (1) space for each guest room | One (1) space per establishment |
| Industrial Uses | One (1) space for each two (2) employees on the maximum working shift | Two (2) spaces per establishment |
| Libraries | One (1) space for each five hundred (500) square feet of floor area | One space per establishment |
| Medical or dental clinics | One (1) space for each examining or operating room plus one (1) space for each doctor and employee | None |
| Manufactured home parks | Two (2) spaces for each manufactured home | None |
| Mortuaries & funeral homes | Five (5) spaces for each reposing room | Two (2) spaces per establishment |
| Multiple-family dwellings Nursing, Convalescent & Rest Homes | Two (2) spaces for each dwelling unit exclusive of required yards; One (1) space for each five beds | None |
| Private Clubs, Lodges, Social or Fraternal Organizations | One (1) space for each one hundred (100) square feet or one (1) space for each three (3) seats at bars or dining tables, whichever is greater | None |
| Schools | One (1) space for each twenty-five students | One (1) space per school |
| Service Establishments | One (1) space for each three hundred (300) square feet of floor area | One (1) space per establishment |

USE OR STRUCTURE

**MINIMUM OFF-STREET
PARKING REQUIREMENTS**

**MINIMUM OFF-STREET
LOADING REQUIREMENTS**

Retail sales establishments

One (1) space for each three hundred (300) square feet of floor area

One (1) space per establishment

Single-family dwellings

Two (2) spaces for each dwelling unit exclusive or required yards

None

Theatres, auditoriums, &
places of public assembly

Not Applicable

One (1) space per establishment

Wholesale & distribution

One (1) space for each two (2) employees on the maximum working shift

Two (2) spaces per establishment

CHAPTER 4.06 STRUCTURES TO HAVE ACCESS

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

CHAPTER 4.07 YARDS

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

Section 4.07.01 Yards, Reduction in Size.

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

Section 4.07.02 Additional Yard Requirements.

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

1. Except in the, "A", and "C1" Districts, a corner lot must have a front yard on both streets
2. On lots in any residentially zoned block fronting on one side of the street between two streets where one or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line. Provided, however, that on lots in any block fronting one side of a street between two intersecting streets in the above districts, the set-back line may be increased, providing that the owners of three-fourths (3/4) of the front footing on said side of the street in said block shall petition the Planning and Zoning Commission to establish the set-back line at a certain distance named in the petition. If the Planning and Zoning Commission shall approve of establishing the setback line as petitioned, it may be so established.
3. On through lots and reversed frontage lots, a front yard must be provided on both streets.
4. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

Section 4.07.03 Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.
3. Filling station pumps and pump islands may occupy required yards provided, however, that they are not less than fifteen (15) feet from all lot lines.
4. An accessory building may be located in a rear yard but not occupy more than 30 percent of a rear yard.
5. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

CHAPTER 4.08 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 4.09 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Chapter 2.03 do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

CHAPTER 4.10 MANUFACTURED HOME PROVISIONS.

Section 4.10.01 Modular Homes.

1. Modular homes shall meet the following regulations.
 - A. Modular homes shall meet or exceed Uniform Building Codes.
 - B. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.

- C. Modular homes shall have more than 1,000 square feet in ranch style and 850 square feet split and be placed on a permanent foundation.
- D. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
- E. Modular homes shall have a minimum of a 4/12-roof pitch.
- F. Have siding material of a type customarily used on site-constructed residences.
- G. Have roofing material of a type customarily used on site-constructed residences.

Section 4.10.02 Type I and Type II Manufactured Homes.

1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two types of homes are defined under these regulations.
 - A. Type I manufactured home shall:
 - i. Have more than 1,100 square feet of occupied space in a double section or larger multi section unit.
 - ii. The running gear and hitch have been removed.
 - iii. Has been anchored to a permanent foundation, which shall include a permanent exterior footing with permanent perimeter foundation walls, with or without a basement;
 - iv. The foundation shall be (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete or concrete block.
 - v. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade.
 - vi. Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.
 - vii. Have a gabled roof with a pitch of at least 3/12 feet.
 - viii. Have siding material of a type customarily used on site-constructed residences.
 - ix. Have roofing material of a type customarily used on site-constructed residences.
 - x. The age of the manufactured house may not exceed ten (10) years from the date of manufacture.

B. Type II manufactured home shall:

- i. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit.
- ii. Utilize a perimeter enclosure in accordance with approved installation standards, as specified in 4.10.02.B.2.
- iii. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense or by the ANTI/NFPA 501A Standards.
- iv. Have siding material of a type customarily used on site-constructed residences.
- v. Have roofing material of a type customarily used on site-constructed residences.
- vi. Have a gabled roof with a pitch of at least 3/12 feet.
- vii. The age of the manufactured house may not exceed ten (10) years from the date of manufacture.
- viii. Be placed onto a support system. In accordance with approved installation standards, as specified in Section 4.10.02.2.

2. Installation standards

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

B. Foundation Siding/Skirting

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

C. Support System

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

- ii. Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

3. Nonconforming Homes.

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

4. Replacement of Nonconforming Homes.

Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a non-conforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the replaced Type I and/or Type II Manufactured Home, then application must first be made to the City Planning and Zoning Commission for special permit.

5. Structural Alteration.

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

6. Variance from Maximum Age Requirement

Type I and Type II manufactured homes may receive a variance from the maximum age requirement (Chapter 4.09). The Board of Adjustment may grant a variance if the applicant requesting the placement of the manufactured home meets the following requirements:

- A. The applicant shall provide a photograph of the manufactured home's exterior and interior.
- B. That it shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of the City of Lake Preston.
- C. That the applicant shall obtain, and present to the Board of Adjustment, the written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of sixty-six (66)

percent of the property owners within 150 feet (excluding streets and alleys) of said proposed location.

CHAPTER 4.11 PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS

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

CHAPTER 4.12 UTILITY EASEMENTS.

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

CHAPTER 4.13 MOVED IN BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.
 - A. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.
 - B. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical, and construction requirements of the City of Lake Preston.
 - C. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
 - D. The applicant may also be required to file with the City Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

- E. Any building, which is not newly constructed to be used for first occupancy, shall also meet the following minimum requirements to obtain a permit.
 - i. The written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of more than fifty (50) percent of the number of owners of property within three hundred (300) feet (excluding streets and alleys) of said proposed location has been received.

CHAPTER 4.14 SCREENING

Where any “C1”, “HC”, and “I” use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where planting or fencing may be in conflict with Chapter 4.01 or Chapter 4.02.

CHAPTER 4.15 REFUSE

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

CHAPTER 4.16 UNLICENSED VEHICLES

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

CHAPTER 4.17 CONNECTION TO SANITARY SEWER

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

CHAPTER 4.18 FILLING, GRADING, LAGOONING AND DREDGING

1. Filling, grading, lagooning or dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation, or impairment of fish and aquatic life is prohibited.

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

ARTICLE V. DEFINITIONS

CHAPTER 5.01 GENERAL TERMS

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

The present tense includes the future tense

The singular number includes the plural;

The plural number includes the singular;

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

The word “**shall**” is mandatory; the word “**may**” is permissive;

The words “**used**” or “**occupied**” include the words intended, designed, or arranged to be used or occupied.

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

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

Animal unit: One animal unit is equivalent to 1.0 feeder/slaughter cattle, 0.5 horse; 0.7 mature dairy cow; 2.5 finishing swine; 10 nursery swine; 10 sheep/goats; 55 turkeys; 5 ducks/geese; 30 hens, cockerels, capons, broilers.

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

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

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

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

Building: The word “building” includes the word “structure” and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

Building Area: The portion of a lot remaining after required yards have been provided.

Conditional Use: A use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare, The board of adjustments may permit such uses when specific provision is made in the zoning district regulations.

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

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

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

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

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

Family: One or more individuals living, sleeping, cooking or eating on the premises as a single housekeeping unit; but it shall not include a group or more than three (3) individuals not related by blood or marriage

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

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

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

Family: One or more individuals living, sleeping, cooking or eating on the premises as a single housekeeping unit; but it shall not include a group or more than three individuals not related by blood or marriage.

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

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

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

Home Occupation: An occupation conducted in a dwelling unit, provided that:

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

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

Junk Yard: The use of more than fifty (50) square feet of any land, building, or structure, whether for private or commercial purposes, or both, where waste discarded or salvaged materials such as scrap metals, used building materials, used lumber, used glass,

discarded vehicles, paper, rags, rubber, cordage, barrels, machinery, etc., or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

Kennel: Any place where more than two (2) dogs or cats over four (4) months of age are owned, boarded, raised, bred and offered for sale.

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

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

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

1. **Lot Area:** The lot area is the land in square feet, within the lot lines.
2. **Lot depth:** The depth of a lot is the mean distance from the street line of the lot to its rear line, measured in the general direction, of the side line of the lot.
3. **Lot Width:** the width of a lot is the mean distance between side lot lines measured at a point of fifty (50) feet from the street line thereof.

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

Lot of Record: A lot which is part of a subdivision recorded in the office of the Kingsbury County Register of Deeds, prior to the adoption of this Ordinance.

Parking Space, Off-street: An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with related access to a public street or alley, and maneuvering room. For purposes of rough computation, an off-street parking space may be estimated at three hundred (300) square feet.

Person: In addition to an individual, includes the following terms: “firm”, “association”, “organization”, “partnership”, “trust” “company”, or “corporation”.

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

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

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

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

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

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

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

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

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

Yard, Front: A yard extending between side lot lines across the front of a lot adjoining a public street.

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

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

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

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

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

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

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

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