

**2020 REVISED  
NORTH SIOUX CITY  
ZONING ORDINANCE**

Public Hearing Draft

*Prepared by the South Eastern Council of Governments at the direction of the  
Planning Commission and City Council of the City of North Sioux City, South Dakota*

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# CHAPTER 17.04. GENERAL PROVISIONS

**17.04.01 Title and Application.** These regulations shall be referred to as the “2020 Revised North Sioux City Zoning Ordinance”, or herein, as “this Ordinance”.

**17.04.02 Jurisdiction.** The provisions of this Ordinance shall apply to all territory within the municipal boundaries of the City of North Sioux City, South Dakota, as established on the Official Zoning Map of the City of North Sioux City.

**17.04.03 Purpose.** This Ordinance has been based upon the North Sioux City Comprehensive Plan 2035 adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws (SDCL). It is designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended to:

- \* lessen congestion in the streets;
- \* secure safety from fire, panic, and other dangers;
- \* promote health and the general welfare;
- \* provide adequate light and air;
- \* prevent overcrowding of land;
- \* avoid undue concentrations of population; and
- \* facilitate the adequate provision of transportation, water, sewers, school, parks, and other public necessities.

**17.04.04 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 either internally conflict or conflict 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.

**17.04.05 Private Agreements.** The City shall not be responsible for monitoring or enforcing private easements, covenants, deed restrictions, or homeowner associations and their documents, although it may inquire as to whether a lot or lots are subject to any of the aforementioned private agreements during the review of any application submitted pursuant to this Ordinance.

**17.04.06 Separability Clause.** Should any 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.



**17.04.07 Repeal of Conflicting Ordinances.** All prior ordinances or parts of prior ordinances in conflict with this Ordinance are hereby declared repealed. This expressly includes all of Title 17 Land Use & Development of the City of North Sioux City’s Municipal Ordinance Code 2009, referred herein to as “City Code”, with the exception of the existing Chapter 17.04.070: Subdivision Regulation; Chapter 17.88: Subdivision Approval Procedure; Chapter 17.92: Subdivision Design Standards; Chapter 17.96: Subdivision Improvements Required Prior to Final Plat Approval; and Chapter 17.100.060: Subdivision Regulation Enforcement. It is the intent of the City Council that these provisions remain effective but are renumbered to accommodate this Ordinance as established in Table 1 below.

TABLE 1: Renumbering of Existing Provisions

<u>Existing Chapter</u>	<u>Renumbered Chapter</u>
Chapter 17.04.070	Chapter 17.108
Chapter 17.84.050	Chapter 17.112
Chapter 17.88	Chapter 17.116
Chapter 17.92	Chapter 17.120
Chapter 17.96	Chapter 17.124
Chapter 17.100.060	Chapter 17.128

**17.04.08 Savings Clause.** This Ordinance shall in no manner affect pending actions, either civil or criminal, founded on, or growing out of any regulations hereby repealed. It shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations repealed.

**17.04.09 Relationship to City Code.** The use of buildings and land within the City of North Sioux City shall be subject to all applicable provisions of the City Code and other ordinances, as well as this Ordinance, whether or not those other provisions of the City Code are specifically cross-referenced in this Ordinance. Any cross-references to other provisions of the City Code found in this Ordinance are provided for the convenience of the reader; lack of a cross-reference should not be construed as an indication that the City Code does not apply.

**17.04.10 Relationship to Comprehensive Plan.** This Ordinance is intended to implement the goals, principles, and objectives reflected in the Comprehensive Plan as adopted by the City. While the City reaffirms its commitment that the provisions of this Ordinance and any amendment made hereto shall conform to adopted planning policies, the City proclaims its intent that neither this Ordinance nor any amendment hereto may be challenged merely on the basis of an alleged nonconformity with the Comprehensive Plan.

**17.04.11 Complaints Regarding Violations.** Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint

shall fully state the causes and basis thereof and be filed with the Authorized Official. He or she shall record such complaint, investigate, and take any reasonable actions thereon as provided herein. See Chapter 17.80.

**17.04.12 Violations.** The owner or agent of a building or lot in or upon which a violation of any provision of this Ordinance has been committed or shall exist, or the lessee or tenant of an entire building or entire lot in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part, or assists in any violation or who maintains any building or lot in or upon which such violation shall exist, shall be guilty of a Class 2 misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00), thirty (30) days in jail, or both. Each day that such violation continues may constitute a separate offense.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or lot is used in violation of this Ordinance, the appropriate representatives of the City, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure, or lot.

**17.04.13 Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, publication, and effective date as provided by South Dakota law.

# CHAPTER 17.08. DISTRICTS AND BOUNDARIES

**17.08.01 General Regulations.** The following general regulations shall apply to all zoning districts and lots within the City:

- A. Except as otherwise provided, a lot shall only be used:
  - 1. For a principal land use authorized in this Ordinance as either a Permitted or Conditional Use in the district in which it is located or proposed to be located;
    - a. Exception: The Authorized Official may determine that a proposed principal land use, while not specifically classified within a district as a Permitted or Conditional Use, is sufficiently similar to another land use so classified that it shall be treated similarly within that district. In reaching such a conclusion, he or she shall first evaluate the nature of the proposed land use, including, but not limited to, its potential generation of traffic, congestion, noise, odors, dust, litter, and similar impacts.
  - 2. In conformance with the minimum lot area, minimum lot width, setback, and maximum structure height requirements; all applicable supplemental regulations; and all other requirements of the district in which the building, structure, or land use is located or proposed to be located; and
  - 3. In conformance with any federal, state, or local laws as may be applicable.
- B. All required permits shall be obtained in conformance with Chapter 17.84 and all other applicable building codes.
- C. One (1) Permitted or Conditional Use is allowed per lot in the AG, R-1, R-2, R-3, R-4, and R-5 Districts, except lots in the AG District may contain both a single-family detached dwelling and agricultural land uses. Each principal building shall meet its zoning district's minimum setback requirements. Accessory buildings, structures, and land uses are allowed in conformance with Chapter 17.68.01.
- D. One (1) or more Permitted and/or Conditional Uses are allowed per lot in the CB-1, CB-2, HC, GB, and I Districts so long as each principal building meets the zoning district's minimum setback requirements. Accessory buildings, structures, and land uses are allowed in conformance with Chapter 17.68.01.

- E. Every building hereafter constructed, erected, or moved onto a lot in the City shall have access to a public street and all structures shall be situated in such a manner as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- F. Connections to existing City streets shall only be approved by the City Council. No driveway or street shall connect to any existing street within thirty (30) feet of an existing intersection. Wherever possible connections of new streets to existing streets shall align with existing streets. Connections to City collector streets shall occur at intervals of no less than three hundred fifty (350) feet. Current and future collector streets are identified on the Major Street Plan in the City's Comprehensive Plan.
- G. Cooperatives, condominiums, and all other forms of non-traditional property ownership do not uniquely impact upon the provisions of this Ordinance. As such, all requirements shall be observed as though they were under single ownership.

**17.08.02 Districts Designated.** In order to regulate and restrict the height and size of buildings and other structures; the percentage of a lot that may be occupied; the size of required yards, courts, and other open spaces; and the location and use of buildings, structures, and land for trade, industry, residences, and other purposes; the City is hereby divided into the following districts:

- AG Agricultural District
- R-1 Single-Family Residential District
- R-2 Single-Family Lake Residential District
- R-3 Multiple-Family Residential District
- R-4 Multiple-Family Lake Residential District
- R-5 Mobile/Manufactured Home Park District
- CB-1 Military Road Central Business District
- CB-2 River Drive Central Business District
- HC Highway Commercial District
- GB General Business District
- I Industrial District
- FO Floodplain Overlay District
- ARO Airport-Restricted Overlay District
- PD Planned Development District

**17.08.03 Adoption of Official Zoning Map.** The Official Zoning Map for the City of North Sioux City, on record with the Authorized Official, is hereby adopted by reference and declared to be a part of this Ordinance.

**17.08.04 Changes to Official Zoning Map.** Changes to or replacement of the Official Zoning Map shall require amendment of this Ordinance in conformance with Chapter 17.92.

**17.08.05 Interpretation of District Boundaries.** The following rules shall apply where uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map:

- A. Boundaries indicated as approximately following platted lot lines or corporate limits shall be interpreted to follow such platted lot lines or corporate limits;
- B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;
- C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;
- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or topographic features existing on the ground differ from those shown on the Official Zoning Map, the Board of Adjustment, as established in Chapter 17.88, shall interpret the district boundaries; and
- E. Where a district boundary line divides a lot that was commonly owned at the time of passage of this Ordinance, the Board of Adjustment may permit, by a conditional use permit, the extension of the regulations for either portion of the lot into the remaining portion of the lot.

**17.08.06 Annexations.** When possible, the City will make every effort to conduct the change of zone of new lots concurrent with the land's annexation into the City. When it is not possible to conduct the change of zone concurrently with the annexation, the properties which may hereafter be annexed into the City shall automatically be assigned the district concurrent with or closest to the existing Union County district classification as determined by the Authorized Official until such time as they undergo a change of zone in conformance with this Ordinance.

# CHAPTER 17.12. AG: AGRICULTURAL DISTRICT

**17.12.01 Purpose.** The purpose of this district is to protect agricultural lands and lands consisting of natural growth from incompatible land uses until such time as they are ready for urban development.

**17.12.02 Permitted Uses.** Lots within the AG District may be used for one (1) of the following principal purposes only:

- A. Agriculture. See Chapter 17.08.01(C).
- B. Public park, playground, trails, and/or swimming pool.
- C. Single-family detached dwelling. See Chapter 17.08.01(C).
- D. Undeveloped land.

**17.12.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:

- A. Campground.
- B. Cemetery.
- C. Fairground, race track, and/or amusement park.
- D. Golf course, driving range, and/or country club.
- E. House of worship.
- F. Library, museum, and/or site of historic/cultural significance.
- G. Public service facility.
- H. Public utility facility.
- I. Stable.
- J. Vacation rental by owner (VRBO) in conformance with Chapter 17.68.13.
- K. Veterinary clinic, large animal.
- L. Wireless telecommunications facilities in conformance with Chapter 17.68.12.

- 17.12.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the AG District.
- 17.12.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the AG District shall be regulated in conformance with the provisions of Chapter 17.68.01.
- 17.12.06 Home Occupations.** Home occupations within the AG District shall be regulated in conformance with the provisions of Chapter 17.68.03.
- 17.12.07 Fence Regulations.** Fences within the AG District shall be regulated in conformance with the provisions of Chapter 17.68.02.
- 17.12.08 Off-Street Parking Regulations.** Off-street parking within the AG District shall be regulated in conformance with the provisions of Chapter 17.68.09.
- 17.12.09 Sign Regulations.** Signs within the AG District shall be regulated in conformance with the provisions of Chapter 17.68.08.
- 17.12.10 Lot Area, Yard, and Structure Height Regulations.** The maximum principal building or structure height, minimum lot area, minimum lot width, and setback requirements within the AG District shall be as follows:

A. General Requirements:

	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Structure Height</b>
<b>All uses</b>	1 acre see #1	150 ft. see #1	75 ft. see #1	30 ft. see #1	50 ft. see #1	35 ft. see #1

**Exception**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.

- 17.12.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, buildings, patios, driveways, sidewalks, parking lots, or other water impermeable structures shall not exceed thirty percent (30%) of the lot on which the structures are located within the AG District.

# CHAPTER 17.16. R-1: SINGLE-FAMILY RESIDENTIAL DISTRICT

- 17.16.01 Purpose.** The purpose of this district is to provide for certain low-density residential areas the City has planned and/or developed primarily for single family detached dwellings and where similar developments are likely to occur.
- 17.16.02 Permitted Uses.** Lots within the R-1 District may be used for one (1) of the following principal purposes only:
- A. Community garden.
  - B. Public park, playground, trails, and/or swimming pool.
  - C. Single-family detached dwelling.
  - D. Undeveloped land.
- 17.16.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:
- A. Cemetery.
  - B. Day care center.
  - C. Elementary school; middle or high school; or a combination thereof.
  - D. House of worship.
  - E. Library, museum, and/or site of historic/cultural significance.
  - F. Public utility facility.
  - G. Vacation rental by owner (VRBO) in conformance with Chapter 17.68.13.
- 17.16.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R-1 District.
- 17.16.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the R-1 District shall be regulated in conformance with the provisions of Chapter 17.68.01.



**17.16.06 Home Occupations.** Home occupations within the R-1 District shall be regulated in conformance with the provisions of Chapter 17.68.03.

**17.16.07 Fence Regulations.** Fences within the R-1 District shall be regulated in conformance with the provisions of Chapter 17.68.02.

**17.16.08 Off-Street Parking Regulations.** Off-Street parking within the R-1 District shall be regulated in conformance with the provisions of Chapter 17.68.09.

**17.16.09 Sign Regulations.** Signs within the R-1 District shall be regulated in conformance with the provisions of Chapter 17.68.08.

**17.16.10 Lot Area, Yard, and Structure Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the R-1 District shall be as follows:

	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Structure Height</b>
<b>Single-family detached dwelling</b>	6,500 sq. ft.	50 ft. see #2, #3	30 ft. see #4	7 ft.	25 ft.	35 ft.
<b>All other uses</b>	NA see #1	NA see #1	30 ft. see #1, #4	7 ft. see #1	25 ft. see #1	35 ft. see #1

**Exceptions**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 A single-family detached dwelling may be constructed on a lot-of-record which has a lot width of less than fifty (50) feet, subject to applicable setback requirements.
- #3 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line.
- #4 There shall be a required front yard on each street side of a corner lot. Similarly, there shall be a required front yard on each street side of a multiple-frontage lot. In both situations, the addressed required front yard(s) shall be thirty (30) feet; however, the other required front yard may be reduced to fifteen (15) feet.
- #5 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.

**17.16.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, buildings, patios, driveways, sidewalks, parking lots, or other water impermeable structures shall not exceed seventy-five percent (75%) of the lot on which the structures are located within the R-1 District.

## CHAPTER 17.20. R-2: SINGLE-FAMILY LAKE RESIDENTIAL DISTRICT

- 17.20.01 Purpose.** The purpose of this district is to provide for single-family detached residential dwellings and support facilities having lake frontage.
- 17.20.02 Permitted Uses.** Lots within the R-2 District may be used for one (1) of the following principal purposes only:
- A. Community garden.
  - B. Public park, playground, trails, and/or swimming pool.
  - C. Single-family detached dwelling.
  - D. Undeveloped land.
- 17.20.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:
- A. Day care center.
  - B. House of worship.
  - C. Library, museum, and/or site of historic/cultural significance.
  - D. Public service facility.
  - E. Public utility facility.
  - F. Vacation rental by owner (VRBO) in conformance with Chapter 17.68.13.
- 17.20.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R-2 District.
- 17.20.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the R-2 District shall be regulated in conformance with the provisions of Chapter 17.68.01.
- 17.20.06 Home Occupations.** Home occupations within the R-2 District shall be regulated in conformance with the provisions of Chapter 17.68.03.

**17.20.07 Fence Regulations.** Fences within the R-2 District shall be regulated in conformance with the provisions of Chapter 17.68.02.

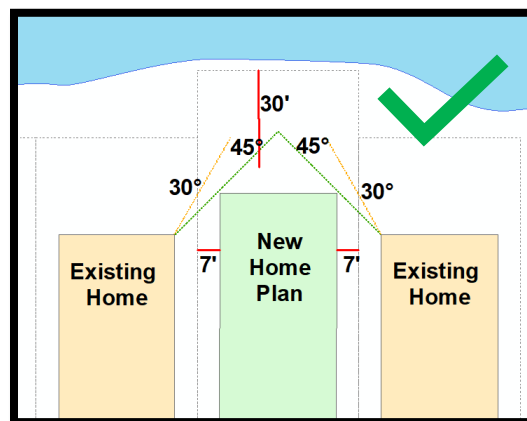
**17.20.08 Off-Street Parking Regulations.** Off-Street parking within the R-2 District shall be regulated in conformance with the provisions of Chapter 17.68.09.

**17.20.09 Sign Regulations.** Signs within the R-2 District shall be regulated in conformance with the provisions of Chapter 17.68.08.

**17.20.10 Lot Area, Yard, and Structure Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the R-2 District shall be as follows:

	Minimum Lot Area	Minimum Lot Width	Front Yard Setback*	Side Yard Setback	Rear Yard Setback	Maximum Structure Height
<b>Single-family detached dwelling</b>	6,500 sq. ft.	50 ft. see #2	30 ft. see #3	7 ft.	25 ft.	35 ft.
<b>All other uses</b>	NA see #1	NA see #1	30 ft. see #1, #3	7 ft. see #1	25 ft. see #1	35 ft. see #1

\* For purposes of this Chapter, the front lot line shall be the line bounding the “ordinary high-water line” for littoral lots and the line on the lakeside of the lot for non-littoral lots. In addition to the prescribed front yard setback, any new or reconstructed building located on the lot shall respect and observe a line of sight view corridor of forty-five (45) degrees from each corresponding corner of the principal building located on its neighboring properties. The angle of this view corridor may be reduced to no less than thirty (30) degrees on one (1) or more sides by written agreement between the lot owner and the relevant neighbor(s). This agreement shall be filed with the City and the Union County Register of Deeds. It shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land. (See Figure #1)



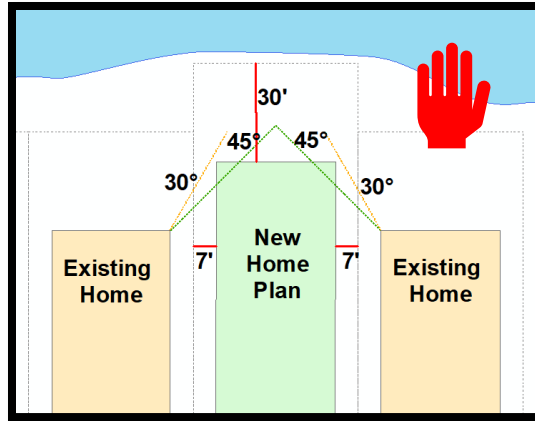


Figure #1

### Exceptions

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 A single-family detached dwelling may be constructed on a lot-of-record which has a lot width of less than fifty (50) feet, subject to applicable setback requirements.
- #3 There shall be a required front yard on each street side of a corner lot. Similarly, there shall be a required front yard on each street side of a multiple-frontage lot. In both situations, the addressed required front yard(s) shall be thirty (30) feet; however, the other required front yard may be reduced to fifteen (15) feet.
- #4 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.

**17.20.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, buildings, patios, driveways, sidewalks, parking lots, or other water impermeable structures shall not exceed seventy-five percent (75%) of the lot on which the structures are located within the R-2 District.

## CHAPTER 17.24. R-3: MULTIPLE-FAMILY RESIDENTIAL DISTRICT

**17.24.01 Purpose.** The purpose of this district is to provide for a variety of single-family attached dwellings and multiple-family living areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety, and welfare; in addition to providing for those areas within the community which are compatible in character and density with the multiple-family residential environment.

**17.24.02 Permitted Uses.** Lots within the R-3 District may be used for one (1) of the following principal purposes only:

- A. Community garden.
- B. Public park, playground, trails, and/or swimming pool.
- C. Public service facility.
- D. Single-family detached dwelling.
- E. Townhouse (2 units only).
- F. Two family dwelling.
- G. Undeveloped land.

**17.24.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:

- A. Apartment complex.
- B. Assisted living facility or nursing home.
- C. Cemetery.
- D. Condominium.
- E. Day care center.
- F. Elementary school; middle or high school; or a combination thereof.
- G. Group home.

- H. House of worship.
- I. Library, museum, and/or site of historic/cultural significance.
- J. Public utility facility.
- K. Townhouse (3 or more units).
- L. Vacation rental by owner (VRBO) in conformance with Chapter 17.68.13.

**17.24.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R-3 District.

**17.24.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the R-3 District shall be regulated in conformance with the provisions of Chapter 17.68.01.

**17.24.06 Home Occupations.** Home occupations with the R-3 District shall be regulated in conformance with the provisions of Chapter 17.68.03.

**17.24.07 Fence Regulations.** Fences within the R-3 District shall be regulated in conformance with the provisions of Chapter 17.68.02.

**17.24.08 Off-Street Parking Regulations.** Off-Street parking within the R-3 District shall be regulated in conformance with the provisions of Chapter 17.68.09.

**17.24.09 Sign Regulations.** Signs within the R-3 District shall be regulated in conformance with the provisions of Chapter 17.68.08.

**17.24.10 Lot Area, Yard, and Building Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the R-3 District shall be as follows:

	Minimum Lot Area	Minimum Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Structure Height
<b>Single-family detached dwelling</b>	7,500 sq. ft.	50 ft. see #2, #4	30 ft. see #5	7 ft.	25 ft.	35 ft.
<b>Two Family Dwelling</b>	10,000 sq. ft./ 5,000 sq. ft. per unit	90 ft./ 45 ft. per unit	30 ft. see #5	7 ft. see #3	25 ft.	35 ft.

	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Structure Height</b>
<b>Townhouse</b>	5,000 sq. ft. per unit	45 ft. per exterior unit / 35 ft. per interior unit	30 ft. see #5	7 ft. see #3	25 ft.	35 ft.
<b>Apartment Complex</b>	9,000 sq. ft. plus an additional 2,000 sq. ft. per unit	75 ft.	30 ft. see #5	10 ft.	25 ft.	45 ft.
<b>Condominium</b>	9,000 sq. ft. plus an additional 2,000 sq. ft. per unit	75 ft.	30 ft. see #5	10 ft.	25 ft.	45 ft.
<b>All other uses</b>	NA see #1	NA see #1	30 ft. see #1, #5	7 ft. see #1	25 ft. see #1	35 ft. see #1

### **Exceptions**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 A single-family detached dwelling may be constructed on a lot-of-record which has a lot width of less than fifty (50) feet, subject to applicable setback requirements.
- #3 The side yard is zero (0) feet on the party wall side of the structure.
- #4 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line; however, the minimum lot width at the right of way line shall not be less than fifty (50) feet.
- #5 There shall be a required front yard on each street side of a corner lot. Similarly, there shall be a required front yard on each street side of a multiple-frontage lot. In both situations, the addressed required front yard shall be thirty (30) feet; however, the other required front yard(s) may be reduced to fifteen (15) feet.
- #6 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.



**17.24.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, buildings, patios, driveways, sidewalks, parking lots, or other water impermeable structures shall not exceed seventy-five percent (75%) of the lot on which the structures are located within the R-3 District.

## CHAPTER 17.28. R-4: MULTIPLE-FAMILY LAKE RESIDENTIAL DISTRICT

**17.28.01 Purpose.** The purpose of this district is to provide for single-family attached residential dwellings having lake frontage.

**17.28.02 Permitted Uses.** Lots within the R-4 District may be used for one (1) of the following principal purposes only:

- A. Community garden.
- B. Public park, playground, trails, and/or swimming pool.
- C. Public service facility.
- D. Single-family detached dwelling.
- E. Townhouse (2 units only).
- F. Two family dwelling.
- G. Undeveloped land.

**17.28.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:

- A. Assisted living facility or nursing home.
- B. Day care center.
- C. Elementary school; middle or high school; or a combination thereof.
- D. Group home.
- E. House of worship.
- F. Library, museum, and/or site of historic/cultural significance.
- G. Public utility facility.
- H. Vacation rental by owner (VRBO) in conformance with Chapter 17.68.13.

- 17.28.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R-4 District.
- 17.28.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the R-4 District shall be regulated in conformance with the provisions of Chapter 17.68.01.
- 17.28.06 Home Occupations.** Home occupations within the R-4 District shall be regulated in conformance with the provisions of Chapter 17.68.03.
- 17.28.07 Fence Regulations.** Fences within the R-4 District shall be regulated in conformance with the provisions of Chapter 17.68.02.
- 17.28.08 Off-Street Parking Regulations.** Off-Street parking within the R-4 District shall be regulated in conformance with the provisions of Chapter 17.68.09.
- 17.28.09 Sign Regulations.** Signs within the R-4 District shall be regulated in conformance with the provisions of Chapter 17.68.08.
- 17.28.10 Lot Area, Yard, and Structure Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the R-4 District shall be as follows:

	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Front Yard Setback*</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Structure Height</b>
<b>Two Family Dwelling</b>	10,000 sq. ft./ 5,000 sq. ft. per unit	90 ft./ 45 ft. per unit	30 ft. see #3	7 ft. see #3, #4	25 ft.	35 ft.
<b>Townhouse</b>	5,000 sq. ft.	45 ft.	30 ft. see #3	7 ft. see #4	25 ft.	35 ft.
<b>Single-family detached dwelling</b>	6,500 sq. ft.	50 ft. see #2	30 ft. see #3	7 ft.	25 ft.	35 ft.
<b>All other uses</b>	NA see #1	NA see #1	30 ft. see #1	7 ft. see #1	25 ft. see #1	35 ft. see #1

\* For purposes of this Chapter, the front lot line shall be the line bounding the “ordinary high-water line” for littoral lots and the line on the lakeside of the lot for non-littoral lots. In addition to the prescribed front yard setback, any new or reconstructed building located on the lot shall respect and observe a line of sight view corridor of forty-five (45) degrees from each corresponding corner of the principal building located on its neighboring properties. The angle of this view corridor may be reduced to no less than thirty (30) degrees on one (1) or more sides by written agreement between the lot owner and the relevant neighbor(s). This agreement shall be filed with the City and the Union County Register of Deeds. It shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land. (See Figure #2)



Figure #2

**Exceptions**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 A single-family detached dwelling may be constructed on a lot-of-record which has a lot width of less than eighty (50) feet, subject to applicable setback requirements.
- #3 There shall be a required front yard on each street side of a corner lot. Similarly, there shall be a required front yard on each street side of a multiple-frontage lot. In

both situations, the addressed required front yard shall be thirty (30) feet; however, the other required front yard(s) may be reduced to fifteen (15) feet.

#4 The side yard is zero (0) feet on the party wall side of the structure.

#5 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.

**17.28.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, buildings, patios, driveways, sidewalks, parking lots, or other water impermeable structures shall not exceed seventy-five percent (75%) of the lot on which the structures are located within the R-2 District.

# CHAPTER 17.32. R-5: MOBILE/MANUFACTURED HOME PARK DISTRICT

- 17.32.01 Purpose.** The purpose of this district is to promote the health, safety, and welfare of the inhabitants of the city through the regulation of the location, planning, design, layout, construction, and operation of licensed manufactured home parks and the placement and use of manufactured homes therein, which by reason of their design and location shall be compatible with neighboring zoning districts.
- 17.32.02 Permitted Uses.** Lots or buildings in the R-5 District may be used for one (1) of the following principal purposes only:
- A. Public park, playground, trails, or swimming pool.
  - B. Undeveloped land.
- 17.32.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:
- A. Elementary school; middle or high school; or a combination thereof.
  - B. Group home.
  - C. House of worship.
  - D. Library, museum, and/or site of historic/cultural significance.
  - E. Licensed manufactured home park in conformance with Chapter 17.68.07.
  - F. Public utility facility.
  - G. Vacation rental by owner (VRBO) in conformance with Chapter 17.68.13.
- 17.32.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R-5 District.
- 17.32.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the R-5 District shall be regulated in conformance with the provisions of Chapter 17.68.01.
- 17.32.06 Home Occupations.** Home occupations within the R-5 District shall be regulated in conformance with the provisions of Chapter 17.68.03.

**17.32.07 Fence Regulations.** Fences within the R-5 District shall be regulated in conformance with the provisions of Chapter 17.68.02.

**17.32.08 Off-Street Parking Regulations.** Off-street parking within the R-5 District shall be regulated in conformance with the provisions of Chapter 17.68.09.

**17.32.09 Sign Regulations.** Signs within the R-5 District shall be regulated in conformance with the provisions of Chapters 17.68.08.

**17.32.10 Lot Area, Yard, and Structure Height Regulations.** The maximum building height, minimum lot area, minimum lot width, and setback requirements within the R-5 District shall be as follows:

	Minimum Lot Area	Minimum Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Structure Height
Licensed Manufactured Home Parks	See Chapter 17.68.07					
All other uses	NA see #1	NA see #1	30 ft. see #1	5 ft. see #1	25 ft. see #1	35 ft. see #1

**Exceptions**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 One (1) required front yard may be reduced to twenty-five (25) feet on corner lots.
- #3 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.

**17.32.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, patios, driveways, sidewalks, off-street parking, or other water impermeable structures shall not exceed seventy-five percent (75%) of the lot on which the structures are located within the R-5 District.

## CHAPTER 17.36. CB-1: MILITARY ROAD CENTRAL BUSINESS DISTRICT

**17.36.01 Purpose.** The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the Military Road commercial corridor.

**17.36.02 Permitted Uses.** Lots within the CB-1 District may be used for one (1) or more of the following principal land uses:

- A. Bank or financial institution.
- B. Bar, tavern, and/or cocktail lounge.
- C. Community center.
- D. Community garden.
- E. Day care center.
- F. Emergency shelter.
- G. Funeral home/mortuary.
- H. Hotel, inn, or motel.
- I. House of worship.
- J. Medical clinic.
- K. Meeting hall and/or social club.
- L. Museum, art gallery, and/or other public or semi-public cultural facilities.
- M. Office.
- N. Personal service business.
- O. Post office or other government building.
- P. Public park, playground, trails, and/or swimming pool.
- Q. Public service facility.



- R. Restaurant.
- S. Retail service or trade business.
- T. Undeveloped land.

**17.36.03 Conditional Uses.** One (1) or more of the following principal land uses may be allowed per lot after review and approval of a conditional use permit by the Board of Adjustment:

- A. Brew pub.
- B. Commercial/Vocational school.
- C. Microbrewery in conjunction with a restaurant.
- D. Miniature golf course.
- E. Mixed-use commercial/residential.
  - Residential dwelling(s) must be located above commercial portion of the building.
- F. Motor vehicle body shop.
- G. Motor vehicle parking lot.
- H. Motor vehicle service station.
- I. Motor vehicle repair shop.
- J. Public utility facility.
- K. Theater.
- L. Veterinary clinic, small animal.

**17.36.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the CB-1 District.

**17.36.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the CB-1 District shall be regulated in conformance with the provisions of Chapter 17.68.01.

**17.36.06 Home Occupations.** Home occupations within the CB-1 District shall be regulated in conformance with the provisions of Chapter 17.68.03.

- 17.36.07 Fence Regulations.** Fences within the CB-1 District shall be regulated in conformance with the provisions of Chapter 17.68.02.
- 17.36.08 Off-Street Parking Regulations.** Off-street parking within the CB-1 District shall be regulated in conformance with the provisions of Chapter 17.68.09.
- 17.36.09 Sign Regulations.** Signs within the CB-1 District shall be regulated in conformance with the provisions of Chapter 17.68.08.
- 17.36.10 Lot Area, Yard, and Building Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the CB-1 District shall be as follows:
- A. The average front and rear yard setback existing on each street shall apply.
  - B. There are no side yard or lot area restrictions.
  - C. When abutting a residential district, principal buildings shall have a minimum front yard of twenty (20) feet, minimum rear yard of twenty (20) feet, and minimum side yards of ten (10) feet. This rule only applies to a side yard if it is actually abutting the residential district. Any side yard not abutting the residential district is not required to meet this setback requirement.
  - D. The maximum height of all buildings and structures shall not exceed forty-five (45) feet.
  - E. Chapters 17.36.10(A)-(D) above shall apply unless an alternative lot size, lot width, setbacks, and/or structure height is required by the granting of a conditional use permit.
  - F. See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.
- 17.36.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, patios, driveways, sidewalks, off-street parking, or other water impermeable structures shall not exceed ninety percent (90%) of the lot on which the structures are located within the CB-1 District.
- 17.36.12 Additional Regulations Applicable to All Buildings and Uses in the CB-1 District.** To be a Permitted or Conditional Use in the CB-1 District, such use must meet the following performance standards:

- A. No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, gasoline, motor fuels, or welding gasses.
- B. Activities shall be prohibited which emit air contaminants, smoke, odors, gasses, noise, or vibrations which are evident beyond the lot lines of the lot upon which such activity is to be located.

## **CHAPTER 17.40. CB-2: RIVER DRIVE CENTRAL BUSINESS DISTRICT**

**17.40.01 Purpose.** The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the River Drive commercial corridor.

**17.40.02 Permitted Uses.** Lots within the CB-2 District may be used for one (1) or more of the following principal land uses:

- A. Bank or financial institution.
- B. Bar, tavern, and/or cocktail lounge.
- C. Community center.
- D. Community garden.
- E. Day care center.
- F. Emergency shelter.
- G. Funeral home/mortuary.
- H. Hotel, inn, or motel.
- I. House of worship.
- J. Medical clinic.
- K. Meeting hall and/or social club.
- L. Museum, art gallery, and/or other public and semi-public cultural facilities.
- M. Office.
- N. Personal service business.
- O. Post office or other government building.
- P. Public park, playground, trails, and/or swimming pool.
- Q. Public service facility.

- R. Restaurant.
- S. Retail service or trade business.
- T. Undeveloped land.

**17.40.03 Conditional Uses.** One (1) or more of the following principal land uses may be allowed per lot after review and approval of a conditional use permit by the Board of Adjustment:

- A. Brew pub.
- B. Commercial/Vocational school.
- C. Microbrewery in conjunction with a restaurant.
- D. Miniature golf course.
- E. Mixed-use commercial/residential.
  - Residential dwelling(s) must be located above commercial portion of the building.
- F. Motor vehicle body shop.
- G. Motor vehicle parking lot.
- H. Motor vehicle service station.
- I. Motor vehicle repair shop.
- J. Public utility facility.
- K. Single-family detached dwelling.
- L. Theater.
- M. Veterinary clinic, small animal.

**17.40.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the CB-2 District.

**17.40.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the CB-2 District shall be regulated in conformance with the provisions of Chapter 17.68.01.

- 17.40.06 Home Occupations.** Home occupations with the CB-2 District shall be regulated in conformance with the provisions of Chapter 17.68.03.
- 17.40.07 Fence Regulations.** Fences within the CB-2 District shall be regulated in conformance with the provisions of Chapter 17.68.02.
- 17.40.08 Off-Street Parking Regulations.** Off-street parking within the CB-2 District shall be regulated in conformance with the provisions of Chapter 17.68.09.
- 17.40.09 Sign Regulations.** Signs within the CB-2 District shall be regulated in conformance with the provisions of Chapter 17.68.08.
- 17.40.10 Lot Area, Yard, and Building Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the CB-2 District shall be as follows:
- A. The average front and rear yard setback existing on each street shall apply.
  - B. There are no side yard or lot area restrictions.
  - C. When abutting a R District, principal buildings shall have a minimum front yard of twenty (20) feet, minimum rear yard of twenty (20) feet, and minimum side yards of ten (10) feet. This rule only applies to a side yard if it is actually abutting the residential district. Any side yard not abutting the residential district is not required to meet this setback requirement.
  - D. The maximum height of all buildings and structures shall not exceed forty-five (45) feet.
  - E. Chapters 17.40.10(A)-(D) above shall apply unless an alternative lot size, lot width, setbacks, and/or structure height is required by the granting of a conditional use permit.
  - F. See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.
- 17.40.11 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, patios, driveways, sidewalks, off-street parking, or other water impermeable structures shall not exceed ninety percent (90%) of the lot on which the structures are located within the CB-2 District.
- 17.40.12 Additional Regulations Applicable to All Buildings and Uses in the CB District.** To be a Permitted or Conditional Use in the CB-2 District, such use must meet the following performance standards:

- A. No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, gasoline, motor fuels, or welding gasses.
- B. Activities shall be prohibited which emit air contaminants, smoke, odors, gasses, noise, or vibrations which are evident beyond the lot lines of the lot upon which such activity is to be located.

# CHAPTER 17.44. HC: HIGHWAY COMMERCIAL DISTRICT

**17.44.01 Purpose.** The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to more intensive uses found along Interstate 29 and other major thoroughfares.

**17.44.02 Permitted Uses.** Lots within the HC District may be used for one (1) or more of the following principal land uses:

- A. Bank or financial institution.
- B. Bar, tavern, and/or cocktail lounge.
- C. Car wash.
- D. Commercial/Vocational school.
- E. Convenience store.
- F. Day care center.
- G. Elementary school; middle or high school; or a combination thereof.
- H. Emergency shelter.
- I. Funeral home/mortuary.
- J. Greenhouse/nursery.
- K. Hotel, inn, or motel.
- L. Hospital or medical clinic.
- M. House of worship.
- N. Office.
- O. Meeting hall and/or social club.
- P. Motor vehicle parking lot.
- Q. Motor vehicle repair shop.



- R. Motor vehicle service station.
- S. Motor vehicle sales, display, service, and/or rental.
- T. Personal service business.
- U. Post office or other government building.
- V. Public park, playground, trails, or swimming pool.
- W. Public service facility.
- X. Restaurant.
- Y. Retail service or trade business.
- Z. Theater.
- AA. Undeveloped land.
- BB. Veterinary clinic, small animal.

**17.44.03 Conditional Uses.** One (1) or more of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:

- A. Adult oriented business in conformance with SDCL 11-12 as modified herein.
- B. Big box retail, large.
- C. Big box retail, medium.
- D. Big box retail, small.
- E. Brew pub.
- F. Building, construction, farm, and/or industrial equipment sales, display, service, and/or rental.
- G. Campground.
- H. College/University.
- I. Commercial kennel.
- J. Consumer storage building.

- K. Farm store/Feed store.
- L. Golf course, driving range, or country club.
- M. Limited production processing.
- N. Microbrewery in conjunction with a restaurant.
- O. Miniature golf course.
- P. Motor vehicle body shop.
- Q. Public utility facility.
- R. Recreational facility.
- S. Theater.
- T. Truck and freight terminal.
- U. Veterinary clinic, large animal.
- V. Warehouse or storage house used for the warehousing or storage of non-hazardous products and materials.
- W. Wholesale merchandise sales and storage house for commercial warehousing and storage of non-hazardous materials either in mass or bulk.

**17.44.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01 (A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the HC District.

**17.44.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the HC District shall be regulated in conformance with the provisions of Chapter 17.68.01.

**17.44.06 Fence Regulations.** Fences within the HC District shall be regulated in conformance with the provisions of Chapter 17.68.02.

**17.44.07 Off-Street Parking Regulations.** Off-street parking within the HC District shall be regulated in conformance with the provisions of Chapter 17.68.09.

**17.44.08 Sign Regulations.** Signs within the HC District shall be regulated in conformance with the provisions of Chapter 17.68.08.

**17.44.09 Lot Area, Yard, and Structure Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the HC District shall be as follows:

	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Structure Height</b>
<b>All uses</b>	NA see #1	NA see #1	40 ft. see #1, #3	10 ft. see #1	20 ft. see #1, #2	45 ft. see #1

**Exceptions**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 A rear yard of twenty-five (25) feet shall be required where a lot is adjacent to or abuts a residential district.
- #3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #4 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.

**17.44.10 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, patios, driveways, sidewalks, off-street parking, or other water impermeable structures shall not exceed eighty percent (80%) of the lot on which the structures are located within the HC District.

**17.44.11 Additional Regulations Applicable to All Buildings and Uses in the HC District.** To be a Permitted or Conditional Use in the HC District, such use must meet the following performance standards:

- A. No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, gasoline, motor fuels, or welding gasses.
- B. Activities shall be prohibited which emit air contaminants, smoke, odors, gasses, noise, or vibrations which are evident beyond the lot lines of the lot upon which such activity is to be located.

# CHAPTER 17.48. GB: GENERAL BUSINESS DISTRICT

**17.48.01 Purpose.** The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to those areas not within close proximity to Interstate 29 and other major thoroughfares.

**17.48.02 Permitted Uses.** Lots within the GB District may be used for one (1) or more of the following principal land uses:

- A. Animal hospital/clinic.
- B. Bank or financial institution.
- C. Bar, tavern, and/or cocktail lounge.
- D. Car wash.
- E. Convenience store.
- F. Day care center.
- G. Emergency shelter.
- H. Funeral home/mortuary.
- I. Greenhouse/nursery.
- J. Hotel, inn, or motel.
- K. Hospital or medical clinic.
- L. House of worship.
- M. Office.
- N. Meeting hall and/or social club.
- O. Motor vehicle parking lot.
- P. Motor vehicle repair shop.
- Q. Motor vehicle service station.

- R. Motor vehicle sales, display, service, and/or rental.
- S. Personal service business.
- T. Post office or other government building.
- U. Public park, playground, trails, or swimming pool.
- V. Public service facility.
- W. Restaurant.
- X. Retail service or trade business.
- Y. Theater.
- Z. Undeveloped land.

**17.48.03 Conditional Uses.** One (1) or more of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:

- A. Adult oriented business in conformance with SDCL 11-12 as modified herein.
- B. Big box retail, medium.
- C. Big box retail, small.
- D. Brew pub.
- E. Building, construction, farm, and/or industrial equipment sales, display, service, and/or rental.
- F. Commercial kennel.
- G. Commercial/Vocational school.
- H. Consumer storage building.
- I. Elementary school; middle or high school; or a combination thereof.
- J. Golf course, driving range, or country club.
- K. Microbrewery in conjunction with a restaurant.
- L. Miniature golf course.

- M. Mixed-use commercial/residential.
  - Residential dwelling(s) must be located above commercial portion of the building.
- N. Motor vehicle body shop.
- O. Public utility facility.
- P. Recreational facility.
- Q. Truck and freight terminal.
- R. Theater.
- S. Veterinary clinic, small animal.

**17.48.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the GB District.

**17.48.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the GB District shall be regulated in conformance with the provisions of Chapter 17.68.01.

**17.48.06 Fence Regulations.** Fences within the GB District shall be regulated in conformance with the provisions of Chapter 17.68.02.

**17.48.07 Off-Street Parking Regulations.** Off-street parking within the GB District shall be regulated in conformance with the provisions of Chapter 17.68.09.

**17.48.08 Sign Regulations.** Signs within the GB District shall be regulated in conformance with the provisions of Chapter 17.68.08.

**17.48.09 Lot Area, Yard, and Structure Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the GB District shall be as follows:

	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Structure Height</b>
<b>All uses</b>	NA see #1	NA see #1	25 feet see #1, #3	20 feet see #1	25 feet see #1	45 feet see #1, #2

**Exceptions**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 A conditional use permit will be required for any structure having a maximum height exceeding forty-five (45) feet.
- #3 There shall be a required front yard on each street side of a multiple-frontage lot. There shall be a required front yard on each street side of a corner lot.
- #4 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.

**17.48.10 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, patios, driveways, sidewalks, off-street parking, or other water impermeable structures shall not exceed eighty (80%) of the lot on which the structures are located within the GB District.

**17.48.11 Additional Regulations Applicable to All Buildings and Uses in the GB District.** To be a Permitted or Conditional Use in the GB District, such use must meet the following performance standards:

- A. Fire Hazard. All flammable substances shall be handled in accordance with the latest edition of the Fire Prevention Code published by the American Insurance Association, the laws of the State of South Dakota, and other applicable federal, state, and local regulations.
- B. Noise. All noises and noise-causing activities shall be muffled so that they will not create a disturbance greater than the normal peak hour traffic noise on a major street when observed from any residential district. Major street noise for comparison purposes shall be measured at the lot line.
- C. Air Contaminants. Emissions of contaminants and smoke shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- D. Gasses and Odors. Emissions of gasses and odors shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- E. Vibration. All machines, including punch presses and stamping machines, shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

# CHAPTER 17.52. I: INDUSTRIAL DISTRICT

**17.52.01 Purpose.** The purpose of this district is to provide for a wide range of industrial uses and structures that have high standards of performance and can locate near certain residential and business uses.

**17.52.02 Permitted Uses.** Lots within the I District may be used for one (1) or more of the following principal land uses:

- A. Agriculture related facility involving the handling, storage, processing, and/or shipping of farm products.
- B. Building, construction, farm, and/or industrial equipment sales, display, service, and/or rental.
- C. Commercial kennel.
- D. Consumer storage building.
- E. Contractor's shop and storage yard.
- F. Farm store/feed store.
- G. Food processing facility.
- H. Frozen food locker.
- I. Light manufacturing.
- J. Limited production processing.
- K. Motor vehicle body shop.
- L. Motor vehicle parking lot.
- M. Motor vehicle repair shop.
- N. Motor vehicle sales, display, service, and/or rental.
- O. Office.
- P. Public utility facility.
- Q. Railroad facilities.



- R. Retail service or trade business attached to manufacturing operation.
- S. Stone and monument works.
- T. Truck and freight terminal.
- U. Undeveloped land.
- V. Veterinary clinic, large animal.
- W. Warehouse or storage house used for the warehousing or storage of non-hazardous products and materials.
- X. Wholesale merchandise sales and storage house for commercial warehousing and storage of non-hazardous materials either in mass or bulk.

**17.52.03 Conditional Uses.** One (1) or more of the following principal land uses may be allowed after review and approval of a conditional use permit by the Board of Adjustment:

- A. Airport.
- B. Broadcast tower.
- C. Crematory.
- D. Extraction of rock, sand, and/or gravel.
- E. General manufacturing.
- F. Grain terminal.
- G. Machine shop or other metal working establishment.
- H. Mineral exploration and development.
- I. Motor vehicle wrecking yard, junkyard, salvage yard, or scrap processing facility.
- J. Municipally owned waste water treatment facility.
- K. Recreational facility.
- L. Recycling collection or processing facility.
- M. Sanitary landfill and/or solid waste transfer station.

- N. Smelting or boilerworks.
- O. Tank farm/petroleum products terminal.
- P. Warehouse or storage house used for the warehousing or storage of hazardous products and materials.
- Q. Wholesale merchandise sales and storage house including the commercial warehousing and storage of hazardous materials either in mass or bulk.
- R. Wind energy conversion system.
- S. Wireless telecommunications facilities in conformance with Chapter 17.68.11.

**17.52.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 17.08.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the I District.

**17.52.05 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses within the I District shall be regulated in conformance with the provisions of Chapter 17.68.01.

**17.52.06 Fence Regulations.** Fences within the I District shall be regulated in conformance with the provisions of Chapter 17.68.02.

**17.52.07 Off-Street Parking Regulations.** Off-street parking within the I District shall be regulated in conformance with the provisions of Chapter 17.68.09.

**17.52.08 Sign Regulations.** Signs within the I District shall be regulated in conformance with the provisions of Chapter 17.68.08.

**17.52.09 Lot Area, Yard, and Structure Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the I District shall be as follows:

	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Structure Height</b>
<b>All uses</b>	10,000 sq. ft. see #1	80 ft. see #1	25 feet see #1, #5	10 feet see #1, #3	20 feet see #1, #4	75 feet see #1, #2

## **Exceptions**

- #1 Unless an alternative lot size, lot width, setbacks, and/or structure heights are required by the granting of a conditional use permit.
- #2 A conditional use permit will be required for any structure having a maximum height exceeding seventy-five (75) feet.
- #3 A side yard of twenty-five (25) feet shall be required only where a lot is adjacent to or abuts a residential district.
- #4 A rear yard of twenty-five (25) feet shall be required where a lot is adjacent to or abuts a residential district.
- #5 There shall be a required front yard on each street side of a multiple-frontage lot. There shall be a required front yard on each street side of a corner lot.
- #6 See also Adjustments to Yard Regulations (Chapter 17.72) and Non-Conforming Uses and Non-Standard Lots (Chapter 17.76) for other specific exceptions.

**17.52.10 Maximum Ground Coverage (Impervious Surfaces).** The sum total of the ground area covered by all structures including, but not limited to, patios, driveways, sidewalks, off-street parking, or other water impermeable structures shall not exceed eighty percent (80%) of the lot on which the structures are located within the I District.

**17.52.11 Additional Regulations Applicable to All Buildings and Uses in the I District.** To be a Permitted or Conditional Use in the I District, such use must meet the following performance standards:

- A. Appearance. Junk, salvage, auto wrecking, and other outdoor storage shall be screened from adjacent residential and commercial properties by means of a sturdy, sight-obscuring fence in good repair, or two rows of alternate planted evergreen or red cedar trees.
- B. Fire Hazard. All flammable substances shall be handled in accordance with the latest edition of the Fire Prevention Code published by the American Insurance Association, the laws of the State of South Dakota, and other applicable federal, state, and local regulations.
- C. Noise. All noises and noise-causing activities shall be muffled so that they will not create a disturbance greater than the normal peak hour traffic noise on a major street when observed from any residential district. Major street noise for comparison purposes shall be measured at the lot line.
- D. Sewage and Liquid Waste. No operation shall be allowed to discharge liquid waste of any radioactive nature or chemical nature that is detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and

installations into a sewer, watercourse, or the ground unless otherwise permitted pursuant to federal and/or state law.

- E. Air Contaminants. Air contaminants and smoke shall be less dark than designated Number Two on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number Two shall be permitted for a single four-minute period per each one-half (1/2) hour. Light-colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted. Particulate matter or dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths (2/10) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit. Due to the fact that the possibilities of air contaminants cannot be comprehensively covered in this section, the general rule shall be that there shall not be discharged from any source whatsoever such quantities of air contaminants or other materials in such quantities as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health, or safety of any such considerable number of persons or the general public or to cause or have a natural tendency to cause injury or damage to business, vegetation, or property.
- F. Odor. Odor-causing operations shall be controlled to reduce the transmission or escape of odors to the extent that doing so will prevent injury or damage to business, vegetation, and/or property.
- G. Gases. All noxious gases shall be controlled to the extent that doing so will prevent injury or damage to business, vegetation, and/or property. The gases sulfur dioxide and hydrogen sulfide shall not exceed five parts per million (0.0005%), carbon monoxide shall not exceed twenty-five parts per million (0.0025%), and nitrous fumes shall not exceed five parts per million (0.0005%). All measurements shall be made at the lot line(s).
- H. Vibrations. All machines, including punch presses and stamping machines, shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

# CHAPTER 17.56. FPO: FLOODPLAIN OVERLAY DISTRICT

**17.56.01 Purpose.** This district is intended to protect natural drainage courses in their capacities to carry runoff water by preventing: certain types of land uses and structures in the area subject to flooding, the destruction or pollution of valuable or irreplaceable natural resources; and the encroachment of uses which would reduce the potential of these resources.

**17.56.02 Establishment.** While not appearing on the Official Zoning Map itself, the Floodplain Overlay District (FPO) mirrors North Sioux City's Official Flood Map as found through the Federal Emergency Management Agency (FEMA) Flood Map Service Center, which is available through <https://msc.fema.gov/portal/home>. It is not intended to interfere with, abrogate, or annul any other rules or regulations of this Ordinance, except if it imposes a greater restriction than the underlying zoning district regulations, the greater restriction shall apply.

**17.56.03 Permitted Uses.** All Permitted Uses authorized in the underlying zoning district shall be allowed provided they can meet the performance standards of Chapter 17.56.06 and are not otherwise prohibited.

**17.56.04 Conditional Uses.** All Conditional Uses authorized in the underlying zoning district shall be allowed provided they can meet the performance standards of Chapter 17.56.06 and are not otherwise prohibited.

**17.56.05 Prohibited Principal Land Uses.** Notwithstanding the provisions of Chapters 17.56.03 and 17.56.04, the following principal land uses shall be prohibited on any lot within the FO District:

- A. Cemetery.
- B. Motor vehicle service station.

**17.56.06 Performance Standards.** All land uses on lots within the FPO District shall conform to the following standards:

- A. No storage or processing of materials that are flammable, explosive, or potentially injurious to human, animal, or plant life during times of flooding.

# CHAPTER 17.60. ARO: AIRPORT-RESTRICTED OVERLAY DISTRICT

- 17.60.01 Purpose.** This district is intended to restrict those uses that may be hazardous to the operational safety of aircraft operating within proximity of airports within the City.
- 17.60.02 Permitted Uses.** All Permitted Uses authorized in the underlying zoning district shall be allowed provided they can meet the performance standards of Chapter 17.60.05 and are not otherwise prohibited.
- 17.60.03 Conditional Uses.** All Conditional Uses authorized in the underlying zoning district shall be allowed provided they can meet the performance standards of Chapter 17.60.05 and are not otherwise prohibited.
- 17.60.04 Prohibited Principle Land Uses.** Notwithstanding the provisions of Chapters 17.60.02 and 17.60.03, the following principal land uses shall be prohibited on any lot within the ARO District:
- A. Broadcast tower.
  - B. Wind energy conversion system.
- 17.60.05 Performance Standards.** All land uses on lots within the ARO District shall conform to the following standards:
- A. No structures, devices, or other objects shall be placed or erected that makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, take off, or maneuvering of aircraft.
  - B. No bulk above ground storage greater than six thousand (6,000) gallons of flammable or hazardous substance will be permitted unless it is associated with an aviation business.
  - C. No building or structure taller than fifteen (15) feet shall be constructed.
  - D. No use shall cause electrical interference with navigational signals or radio communications at the airport or with radio or electronic communications between the airport and aircraft or aircraft to aircraft.
  - E. No use shall emit emissions of fly ash, dust, vapor, gases, or other forms of emissions that may conflict with any planned operations of the airport.

# CHAPTER 17.64. PD: PLANNED DEVELOPMENT DISTRICT

**17.64.01 Intent.** This chapter is intended to be applied in cases where tracts of land of considerable size are developed, redeveloped, or renewed as integrated and harmonious units, and where the overall design of the project area is so outstanding as to warrant modification of the general standards contained elsewhere in this Ordinance. A planned development to be eligible under this chapter shall: (1) conform to the City's currently adopted Comprehensive Plan; (2) be composed of such uses, and in such proportions, as are most appropriate and necessary for the integrated functioning of the planned development and for the City; (3) be so designed in its space allocation, orientation, texture, materials, landscaping, and other features as to produce an environment of stable and desirable character, complementing the design and values of the surrounding neighborhood, and show such unusual merit as to reflect credit upon the developer and upon the City; and (4) be so arranged as to provide a reasonable percentage of usable open space on the approved tract.

## **17.64.02 Application and Procedure.**

- A. Eligibility. An application may be filed by either (1) the owner or owners or lessee or lessees of all land and structures included within the tract; or (2) any governmental agency. The holder of a written option or contract to purchase or lease land and/or structures shall, for the purposes of such application, be deemed the owner or lessee of the land and/or structures covered by such option or contract.
- B. Consultation. Prior to submitting an Initial Development Plan, an applicant shall meet with the Planning Commission on an informal basis at its regular meeting to describe his or her proposal. The Planning Commission will evaluate and critique the nature of the proposal based on the principals discussed in Chapter 17.64.01.
- C. Initial Development Plan. If an applicant decides to request a text amendment and change of zone to the Planned Development District, it shall be submitted to the Authorized Official, showing the information specified in Chapter 17.64.03, a minimum of thirty (30) days prior to the Planning Commission meeting at which consideration is desired. After the planned development request has been reviewed, the Planning Commission shall make a recommendation to the City Council on the requested text amendment and change of zone. The City Council shall then act to approve or deny the request.

The text amendment and change of zone request are subject to the requirements specified in Chapter 17.92. No building permit shall be issued within the development until the final development plan is approved and the plat is filed.

- D. Final Development Plan. Prior to obtaining building permits for construction on any lots in the Planned Development District, the applicant shall present a final development plan showing the information specified in Chapter 17.64.04 to the Planning Commission, who shall have the sole authority to approve, deny, or amend the plan.
- E. Amendments.
  - 1. Major Amendments. Major amendments to the initial and/or final development plan shall be approved as a text amendment to this Ordinance in conformance with Chapter 17.92.
  - 2. Minor Amendments. Minor amendments to the final development plan shall be submitted to the Authorized Official on a copy of the final development plan showing the requested changes. The Authorized Official may then approve the change in writing if he/she deems it appropriate and in compliance with the Comprehensive Plan and all relevant laws.

**17.64.03 Initial Development Plan.** The Initial Development Plan shall include the following information:

- A. The subdivision name, the legal description, and the individual project name (if any).
- B. A preliminary subdivision plat in compliance with the City’s adopted land subdivision regulations, including contoured site plans.
- C. The proposed development scheme showing the following information:
  - 1. Size, location, and dimensions of all proposed buildings and structures.
  - 2. A list and description of all proposed principal land uses that will be conducted within each building or structure.
  - 3. Off-street parking lot arrangement designating all proposed parking spaces and off-street loading spaces.
  - 4. The proposed minimum Lot Area, Yard, and Height Regulations for each principal land use.
  - 5. Proposed design features illustrating compatibility to the surrounding environment and neighborhood.
  - 6. The location and general description of any open spaces.
  - 7. Anticipated subarea development sequence or phases.



- D. Unless otherwise specifically differentiated on the initial development plan, all development standards shall be the same as those set forth in a designated zoning district, which shall be referenced and set baseline standards for each subarea as part of the final development plan.

**17.64.04 Final Development Plan.** The Final Development Plan shall include the following information:

- A. Final development plan approval shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Authorized Official and prior to the final development plan approval expiration date, a time extension for the final development plan approval may be granted.
- B. The final development plan shall show the following information:
  - 1. The subdivision name, the legal description, and the individual project name (if any).
  - 2. Boundaries of the subarea or subareas submitted for approval superimposed on the map of the initial development plan.
  - 3. A subdivision plat of the subarea or subareas submitted for approval in compliance with the City's adopted land subdivision regulations, including contoured site plans.
  - 4. A scale drawing showing the following information will be required:
    - a. Size, location, and dimensions of proposed buildings and structures.
    - b. A list and description of all proposed principal land uses that will be conducted within each building or structure.
    - c. Off-street parking lot arrangement designating all proposed parking spaces and off-street loading spaces.
    - d. The proposed minimum Lot Area, Yard, and Height Regulations for each principal land use.
    - e. Any sidewalks, bikeways, or other recreational paths.
    - f. Any outdoor lighting, type and location, except for standard street lights provided by the City.

- g. Landscaping plans showing the type and location of any walls or fences; the placement, size, and species of any trees or shrubs; and berms in areas that will be sod or seeded.
  - h. All existing and proposed utilities, drainage ways, water courses and location of above ground existing utilities on adjacent properties.
  - i. Curb cuts and all private drives.
  - j. Existing principal land uses on adjacent properties and a description of how the proposed development is compatible with those properties.
  - k. Documentation of the ownership and maintenance responsibility of any common open spaces, buildings, or structures, including private streets.
5. Unless otherwise specifically differentiated on the final development plan, all development standards shall be the same as those set forth in a designated zoning district, which shall be referenced and set baseline standards for each subarea as part of the final development plan.

**17.64.05 Amendments.**

- A. Major Amendments. The following changes in an initial and/or final development plan are considered major amendments:
  - 1. The addition or removal of any of the principal land uses.
  - 2. Any adjustment to the size and shape of an individual lot's building envelope (increasing the height or reducing the building setback).
  - 3. Any adjustment to a principal land use's minimum Lot Area, Yard, and Height requirements.
  - 4. Any change in the arrangement of or minimum number of off-street parking spaces and off-street loading spaces.
  - 5. Any other change to the baseline standards for each subarea approved as part of an initial and/or final development plan.
- B. Minor Amendments. The following changes in an initial and/or final development plan are considered minor amendments:
  - 1. Any change in the number or location of curb cuts.

2. Any decrease in the size of required open areas.
3. Any change in the street pattern.
4. Any adjustment of a building or structure within a previously established building envelope.
5. A change to anything other than the baseline standards for each subarea approved as part of an initial and/or final development plan.

## CHAPTER 17.68. SUPPLEMENTARY REGULATIONS

**17.68.01 Accessory Buildings, Structures, and Land Uses.** Accessory buildings, structures, and land uses shall conform to the following standards:

- A. No accessory building or structure shall be constructed or erected upon a lot until the construction of the principal building has commenced or an active principal land use exists on the lot. No accessory building or structure may be used unless an active principal land use exists on the lot.
- B. No accessory building or structure may be placed within any easement granted by the City or any utility or drainage easement, except for equipment pertaining to said easement. Any accessory building or structurally located within an easement that impedes the access or intended use of that easement may be removed by the City or the City's representative at its owner's expense.
- C. Accessory buildings and structures may be not used as dwellings.
- D. AG District: All accessory buildings and structures shall be approved by conditional use permit. They are not required to be subordinate to the principal building regarding size and height.
- E. R-1, R-2, R-3, R-4, R-5, CB-1, CB-2, HC, and GB Districts: Accessory buildings shall be subordinate to the principal building regarding both size and height, but in no event shall an accessory building exceed one thousand two hundred fifty (1,250) square feet of floor area and/or have sidewalls greater than ten (10) feet in height.  
  
Exception: Lots with an area of one (1) acre or greater may have one (1) accessory building up to two thousand (2,000) square feet with sidewalls no greater than ten (10) feet in height.
- F. I District: Accessory buildings are not required to be subordinate to the principal building regarding size and height.
- G. Accessory buildings, structures, and land uses shall not be erected or maintained on lots designed as Undeveloped Land unless a conditional use permit is obtained in conformance with Chapter 17.96.
- H. Home occupations, while an accessory use, shall conform to the requirements of Chapter 17.68.03.

- I. Fences, while an accessory structure, shall conform to the requirements of Chapter 17.68.02.
- J. Vacation Rental By Owner (VRBO) properties which constitute an accessory use shall conform to the requirements of Chapter 17.68.13.
- K. The roofing and siding materials of accessory buildings larger than one hundred-fifty (150) square feet shall be similar to the principal structure.
- L. No accessory building or structure shall be located within ten (10) feet of a principal building or structure.
- M. Any accessory building which is entered directly from an alley shall not be closer than twenty (20) feet to the lot line abutting the alley.
- N. No accessory building shall be erected or located within any front yard in the R-1, R-2, R-3, R-4, and R-5 Districts.
  - 1. Exception: An accessory building may be erected or located within the second front yard on a double frontage or corner lot, so long as it is not within the setback. It may be placed within the setback if approved by a conditional use permit.

NOTE: In the R-2 and R-4 Districts, the front lot line shall be the lot line bounding the “ordinary high-water line” for littoral lots and the lot line on the lakeside of the lot for non-littoral lots. See Chapters 17.20.10 and 17.28.10.

- O. Accessory buildings shall be five (5) feet or more from all lot lines.

**17.68.02 Fences.** Fences shall conform to the following standards:

- A. Barbed wired fences may be erected or maintained in the AG, HC, GB, and I Districts; however, any such fence constructed in the HC, GB, and I Districts may only be topped with barbed wire beginning at a height of at least six (6) feet above grade.
- B. Exposed electrical and other abnormally dangerous fences are prohibited within all zoning districts.
- C. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.
- D. R-1, R-2, R-3, R-4, and R-5 Districts: Fences up to six (6) feet in height may be erected or maintained on any part of a lot other than in the front yard setback. Fences erected or maintained in the front yard setback may not exceed four (4) feet in height.

NOTE: In the R-2 and R-4 Districts, the front lot line shall be the lot line bounding the “ordinary high-water line” for littoral lots and the lot line on the lakeside of the lot for non-littoral lots. See Chapters 17.20.10 and 17.28.10.

- E. AG, CB-1, CB-2, HC, GB, and I Districts: Fences up to eight (8) feet in height may be erected or maintained on any part of the lot other than in the front yard setback. Fences erected or maintained in the front yard setback may not exceed four (4) feet in height.
- F. No fence shall be erected which violates Chapter 17.68.14 – Visibility at Intersections and Driveways.
- G. To preserve the neighborhood character of the R-1, R-2, R-3, R-4, and R-5 Districts, fences constructed or maintained within the front yard shall be of a traditional open-faced design including, but not limited to, white picket, chain link, and split rail.

NOTE: In the R-2 and R-4 Districts, the front lot line shall be the lot line bounding the “ordinary high-water line” for littoral lots and the lot line on the lakeside of the lot for non-littoral lots. See Chapters 17.20.10 and 17.28.10.

- H. Chain link fences for tennis courts, basketball courts, baseball fields, or similar outdoor recreational uses may be erected or maintained to a maximum height of twelve (12) feet provided that the area to be enclosed is not located with either the front, side, or rear yard setbacks.
- I. Fences that abut alleys shall be set back five (5) feet from the street/boulevard right-of-way.
- J. The side of the fence considered the face (facing as applied to fence post) should face abutting property.
- K. In the event a fence is to be constructed on a lot line, abutting property owners shall be notified prior to the issuance of a building permit. It is recommended, but not required, that the property owners sign a fence maintenance agreement and file it with the City and Union County Register of Deeds.
- L. The installation of a fence shall be in a manner as to which access to the City for the purposes of reading or maintaining utility meters is provided.
- M. Any fence placed within an easement that impedes the access or intended use of that easement may be removed by the City or the City’s agent at its owner’s expense. No fence shall be allowed in a drainage easement unless said fence is either ninety (90) percent open or at least two (2) inches above grade. However, in all cases, no fence shall be allowed in a drainage easement if the cumulative width of the easement is greater than twenty (20) feet wide.

- N. Walls, hedges, or similar plantings and structures which create a fence effect are subject to the same regulations as fences.

**17.68.03 Home Occupations.** Home occupations shall conform to the following standards:

- A. Minor home occupations. All home occupations shall meet the following criteria and standards:

1. The occupation shall be conducted entirely within the dwelling and/or its accessory structures. It must be clearly secondary to its use to the lot's use as a residence.

Exception: Family day care occupations may extend into a connected fenced area on the same lot for outdoor recreational activities by the children.

2. The occupation shall be primarily owned and operated by at least one (1) member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and one (1) non-resident employee, not to exceed three (3) employees working on site at any given time. The primary owner-operator(s) of the home occupation does not count as an employee for purposes of this calculation.
4. The operation of the home occupation shall not cause or encourage excess vehicular or pedestrian traffic not ordinarily associated with the residential area in which the home occupation is conducted.
5. Merchandise offered for sale shall be clearly incidental to the home occupation provided however, that, orders may be taken for later delivery off the premises.
6. On-premises advertising shall be limited to one (1) non-illuminated sign not exceeding two (2) square feet. The legend shall show only the name of the occupant and type of occupation and shall be neutral in color.
7. Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling. No home occupation shall require external alteration of the residence or other visible evidence of the conduct of such home occupation.
8. No toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials shall be stored on site. This does not preclude any substances commonly available to consumers including, but not limited to, varnishes, paints, cleaning products, etc.

9. No activity shall be conducted which would interfere with radio or television transmission in the area, nor shall there be any offensive noise, smoke, dust, or heat noticeable beyond the premises.
  10. Home occupations shall be restricted to the hours of 6:00 a.m. to 9:00 p.m.
- B. Major home occupations. Any proposed home occupation which does not meet the criteria as established in Chapter 17.68.03(A) is deemed a major home occupation and shall require a conditional use permit in conformance with Chapter 17.96.

**17.68.04 Landscaping Standards.** To assist in these objectives, the following minimum standards for landscaping are prescribed:

- A. Except as provided herein, at least ninety (90) percent of each lot's front yard setback shall be landscaped and maintained with living ground cover except for the portion necessary for hard surfaced driveways and parking lots as permitted by this Ordinance. For purposes of this Chapter, hard surfacing includes concrete, gravel, stone, and similar semi-pervious and impervious materials.

Exception: In the R-2 and R-4 Districts, the front lot line shall be the lot line bounding the "ordinary high-water line" for littoral lots; therefore, the rear yard is typically on the opposite/street side of the lot from the front yard. As such, the above requirement shall apply to the rear yard on littoral lots in the R-2 and R-4 Districts. See Chapters 17.20.10 and 17.28.10.

- B. The unpaved portion of a dedicated public right-of-way abutting any lot shall be landscaped with sod, seed, or other living ground cover.
- C. Screening: A fence, wall, or shrubbery six (6) feet in height and of a character necessary for adequate screening shall be installed or planted when a parking lot is adjacent to or abuts residentially zoned or used property or across the right-of-way from residentially zoned or used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the six (6) foot screening if they have a maximum grade of three (3) feet horizontal to one (1) foot vertical and sodded or planted with other acceptable living ground cover. For purposes of this section, the term "residentially zoned or used property" does not include a lot whose principal use is designated as mixed-use commercial/residential.
- D. Parking Lot Buffer Areas: A setback of at least five (5) feet shall be provided between a parking lot and residentially zoned or used properties.

Exception: If proper screening is provided, the setback may be two (2) feet.



**17.68.05 Exterior Lighting Standards.** All exterior lighting shall be designed and installed to maintain adequate, safe illumination levels in public areas and on private lands, utilizing durable light fixtures and minimal mounting heights in order to minimize objectionable off-site glare.

**17.68.06 Manufactured Home Requirements.** Manufactured homes shall conform to the following standards:

- A. Manufactured homes shall conform to current manufactured home construction and safety standards, HUD Safety I Standards Act of 1974, effective 1979, also known as the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401-5462, as amended, and related regulations.
- B. Every manufactured home shall contain the following:
  - 1. A kitchen sink in sound working condition and properly connected to both hot and cold water lines in an approved manner. The finish shall be free of scratched and chipped enamel and rusted fixtures and drains so they can be maintained in a clean and sanitary condition.
  - 2. A room affording privacy to its occupant which is equipped with a flush water closet; a handwashing lavatory, basin, or sink; and a bathtub or shower; all of which are in good working condition and properly connected to both hot and cold water lines in an approved manner. The finish shall be free of scratched and chipped enamel and rusted fixtures and drains so they can be maintained in a clean and sanitary condition.
  - 3. Every habitable room shall contain one (1) electrical convenience outlet for each twenty (20) lineal feet, or major fraction thereof, measured horizontally around the room at the base floor line, except that in each habitable room one (1) supplied electric light fixture shall be accepted in lieu of one (1) of the required electrical convenience outlets, provided that each habitable room contains at least one (1) electrical convenience outlet. A minimum of sixty (60) amp service is required and no excessive splicing is allowed. Every outlet and fixture shall be installed in an approved manner and maintained in good and safe working condition.
  - 4. Every water closet compartment, bathroom, laundry room, kitchen, and furnace room shall contain at least one (1) ceiling or wall-type electrical light and fixture. Every outlet and fixture shall be installed in an approved manner and maintained in good and safe working condition.
  - 5. Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area

measured between stops, for every habitable room will be eight percent (8%) of the floor area in such room. One (1) egress window shall be in each bedroom with sill height not to exceed thirty-six (36) inches.

6. Every habitable room shall have at least one (1) window or skylight that can be easily opened, or such other device which will adequately ventilate the room. The total openable window area in each habitable room shall be equal to at least forty-five percent (45%) of the minimum window area size of minimum skylight-type window size, as required in subsection (5) above, except where there is supplied some other device affording adequate ventilation and approved by the city building inspector.
7. Every bathroom and water closet compartment will have at least one (1) window or skylight facing directly to the outside in order to provide adequate ventilation, or a mechanical-type ventilation system provided it produces one (1) complete air change every five (5) minutes.
8. Water heating facilities which are installed in an approved manner, with cold water shutoff; gas cock shutoff union; and drip leg and three-quarter (3/4) inch pop-off safety valve; all of which are maintained and operated in safe and good working condition. All hot water lines shall be capable of heating water to such a temperature as to allow an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred ten (110) degrees Fahrenheit. Water heaters shall not be located in kitchens, bathrooms, or near open flame.
9. Heating facilities that are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to a temperature of at least sixty-eight (68) degrees Fahrenheit at a distance of three (3) feet above floor level when the temperature outside is a minus twenty (-20) degrees Fahrenheit. Such heating equipment shall be operated as reasonably necessary to maintain a temperature in all habitable rooms at sixty-eight (68) degrees Fahrenheit. All heating facilities shall be installed in an approved manner, including chimney, fire vents with proper clearances, and maintained in safe and good working condition.
10. A street address or space number in conformance with the numbering system approved by the Planning Commission as part of the manufactured home park's conditional use permit. The numbers shall be displayed or affixed to the home in a conspicuous location and be no smaller than three (3) inches in height.

- C. Each manufactured home shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area will be counted in determining the maximum permissible occupancy up to ten (10) percent of the total habitable area.
- D. Every habitable room will have a ceiling height of at least seven (7) feet and six and a half (6.5) foot ceiling heights for halls and foyers.
- E. Manufactured homes having a width of less than fourteen (14) feet are prohibited.
- F. Every manufactured home of two (2) or more rooms will contain one (1) room with a minimum of one hundred fifty (150) square feet, every room occupied for sleeping purposes by one (1) occupant will contain at least fifty (50) square feet of floor space and each sleeping room with two occupants will contain at least ninety (90) square feet of floor space, and for each additional person occupying the room for sleeping purposes the room will contain at least fifty (50) additional square feet of floor space.
- G. No manufactured home containing two (2) or more sleeping rooms will have such room arrangement that access to a bathroom or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room; nor will room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.
- H. Each manufactured home shall be properly secured to the ground with either a permanent foundation extending no less than four (4) feet below grade or with tie downs installed as recommended by the manufacturer. Any tie downs shall be installed prior to occupancy. In no event shall they be more than twelve (12) feet apart along the perimeter of the structure or extend down less than four (4) feet below grade.
- I. Each manufactured home shall be skirted with material approved by the Authorized Official. Skirting shall be installed prior to occupancy and in a manner recommended by the manufacturer. Skirting shall be of a material which is compatible with the appearance and condition of neighboring dwelling units. Appropriate materials shall include commercially manufactured colored steel, fiberglass, plastic, brick, or other similar materials.
- J. Every skirting, exterior wall, and roof shall be substantially weather tight and rodent proof, and will be kept in sound condition and good repair.

- K. Every floor, interior wall, and ceiling shall be kept in sound condition and good repair.
- L. Every window and exterior door shall be reasonably weather tight, water tight, and rodent proof and will be kept in sound working condition and good repair.
- M. Every outside stairway shall be maintained in safe and sound condition and good repair.
- N. Every plumbing fixture and water and waste pipe will be installed in an approved manner and maintained in good, sanitary working condition, free from leaks and obstructions.
- O. Every water closet compartment, floor surface, bathroom floor surface, kitchen floor surface and countertop will be constructed and maintained so as to be reasonably impervious to water, and so as to allow such floor and countertop to be easily kept in a clean and sanitary condition. Only kitchen or bath carpeting that is specifically manufactured for such use shall be allowed.
- P. Every supplied facility, piece of equipment, or utility shall be so constructed and installed so that it will function safely and effectively, and will be maintained in satisfactory working condition.
- Q. Exits shall have twenty-eight (28) inches by seventy-four (74) inches of clear opening for exterior exit doors. Dead bolts shall be on exterior doors and shall be capable of being opened without a key from the interior of the building. Outswinging doors shall have a safety door check.
- R. Bath and toilet rooms shall have privacy locks. Room dimension minimum shall be five (5) feet. Toilet compartment shall be thirty (30) inches wide with twenty-four (24) inches in front of the toilet.
- S. Two (2) exterior doors shall be accessible from rooms without locks: twenty (20) feet center to center for double wide, and twelve (12) feet center to center for single wide. An exit door cannot be over thirty-five (35) feet from a bedroom door.
- T. Interior passage doors will be openable by single effort if doors are unlocked. If lockable, doors will be openable from the opposite side in case of emergency.
- U. Hallways shall be a minimum of twenty-eight (28) inches wide.
- X. Each manufactured home shall be connected to the municipal wastewater collection system and municipal water supply system.

- Y. No manufactured home to be placed within the municipal boundaries of the City may exceed fifteen (15) years from its date of manufacture.
- Z. No owner or occupant will cause any service, facility equipment, or utility that is required under the manufactured home park's conditional use permit to be removed from, shut off, or discontinued in any occupied manufactured home, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies.

**17.68.07 Manufactured Home Park Requirements.**

A. Park License Required.

1. It shall be unlawful to operate a manufactured home park within the City unless a valid annual license has been issued. A license issued pursuant to a duly authorized conditional use permit will expire on June 30<sup>th</sup> of each year. Application for a license and license renewal will be made in writing to the Finance Officer on a form furnished by the City and accompanied by a copy of park rules and regulations, and any and all fees payable to the City. The amount of the annual fee for a manufactured home park license shall be set by resolution of the City Council. No application shall be considered, nor license issued until the application is determined to contain complete information and all fees due to the City have been paid in full.

The annual license requirement is in addition to any required conditional use permits.

2. The deadline for filing the license application will be thirty (30) days prior to the expiration of such license. An application for the new license shall be filed thirty (30) days prior to the effective date of the license. An application filed after the expiration date of the license shall be charged, in addition to the license fee, a reinstatement fee equal to fifty (50) percent of the annual license fee.

- B. Park License Revocation or Refusal. A manufactured home park license may be revoked or renewal refused for failure to comply with any of the requirements of this Ordinance or any other condition approved pursuant to the issuance of the conditional use permit. By revoking or declining to renew the permit, the City shall grant the licensee a reasonable time to return to compliance. Failure to do so may result in the review of the conditional use permit pursuant to Chapter 17.96.08.

Nothing in this provision shall be interpreted as precluding the Board of Adjustment from immediately reviewing the conditional use permit pursuant to Chapter 17.96.08 or as having suspended enforcement of this Ordinance if the

licensee continues to operate the manufactured home park while the license is revoked or otherwise invalid.

- C. Transfer of License. The licensee shall give notice in writing to the Authorized Official within thirty (30) days after having sold, transferred, given away, or otherwise disposed of any interest in or control of the manufactured home park. This notice will include the name, address, and phone number of the new owners.
- D. Conditional Use Permit Application Requirements. In addition to the requirements of Chapter 17.96.02 for all conditional use permit applications, the following information is required:
1. A site plan of the manufactured home park drawn to scale which shows each mobile home space and the dimensions thereof; the water, electrical, and sewer lines serving each manufactured home space; and the location of garbage cans, water hydrants, fire hydrants, service buildings, driveways, walkways, recreation areas, required yards, parking facilities, lighting and landscaping.
  2. A space and street name and numbering system for the manufactured home park. This may be included as part of the site plan required in subsection 1 above or as part of a separate document.
  3. A scaled drawing of the park's name sign which shall clearly indicate its proposed size, height, and specific location at each of its main entrances. See Chapter 17.68.08(E)(3).
- E. Minimum Standards. Unless changed, removed, or otherwise altered by the terms and conditions of the conditional use permit issued pursuant to Chapter 17.96, all manufactured home parks shall meet the following requirements:
1. Each park shall be a minimum of two (2) acres and a maximum of fifteen (15) acres in size.
  2. Each park shall maintain an office, denoted by proper signage, in which a person or persons in charge of its management and operations shall be located. Additionally, the office shall at all times have a copy of the park license, the park occupant register, a map showing the location of each space, and a copy of the space and street numbering system approved by the Board of Adjustment as part of the conditional use permit.
  3. The park shall erect and maintain a sign displaying its name and office address at each of its main entrances. The size, height, and specific location of this sign shall be approved by the Board of Adjustment as part of the conditional use permit.

4. The minimum lot space for each manufactured home shall be four thousand five hundred (4,500) square feet and shall measure at least fifty (50) feet by ninety (90) feet.
5. Manufactured homes shall be located on each space so that there will be at least a twenty (20) foot clearance between each manufactured home; and a five (5) foot open space between the manufactured home (including any permanent enclosed appendage) and any driveway, walkway, or space boundary. Additionally, manufactured homes shall be located at least twenty-five (25) feet from the front space boundary line(s) and at least ten (10) feet from all other space boundary lines, whether side or rear.
6. A manufactured home shall be located at least thirty (30) feet from any public right-of-way, whether located inside or outside of the manufactured home park.
7. Off-street parking availability shall be two (2) parking spaces per space.
8. Each manufactured home space shall be anchored to the ground as required by the City's adopted Building Code.
9. All dead-end streets shall terminate in an open space having a sixty (60) foot minimum diameter. No dead-end streets shall exceed five hundred (500) feet in length.
10. An accessible, adequate, safe, and potable supply of water shall be provided in each manufactured home park capable of furnishing a minimum of one hundred twenty-five (125) gallons per day per manufactured home space. All water shall be supplied by the City. A back-flow preventer shall be installed at each new or replacement unit so as to provide an adequate supply of potable water to each individual manufactured home unit and furnished through a pipe distribution system connected directly with the city water system. A city water metering device provided by the city shall be installed at the lot line for each water line hooked onto the city water distribution system. In addition, a city water metering device provided by the city will be installed in a manner and method approved by the city prior to entering each individual manufactured home unit. The water service provided to each individual manufactured home unit shall be metered in the owner's or renter's name who shall be responsible for all water and sewer service charges and for complying with all other city ordinances regarding use of the city water supply and sewer services.

The park's owner(s) shall be responsible for the payment of water service charges calculated as the metered use difference between each

lot line meter and the total metered use of all of the manufactured home units serviced by that line. Water meters for new manufactured home parks shall be installed before a manufactured home park license is issued.

11. All plumbing in the manufactured home park shall comply with the plumbing code as adopted by the City and all applicable state codes.
12. All waste from showers, toilets, laundries, faucets, and lavatories will be deposited into a sewer system extended from and connecting with the city sewer system.
13. The storage, collection, and disposal of refuse in the park will be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident hazards, air pollution, or other related nuisances as prescribed in the City Code. All refuse shall be stored in fly tight, weather tight, rodent proof containers in sufficient number and capacity to prevent any refuse from overflowing.
14. Insect and rodent control measures to safeguard public health, as recommended by the Building Inspector, will be applied in the park. Skirting of manufactured homes will be done in such a manner as to prevent rodent harborage and as directed by the Building Inspector.
15. The park's electrical wiring system shall be constructed and maintained in compliance with city and state electrical codes. Additionally, it is further required that:
  - a. Service equipment will be weatherproofed in safe condition and adequate for the load served.
  - b. Supply cords and receptacles approved for the purpose used shall be in safe condition and have over-current protection at not more than their rating. Supply cords will not be spliced except in an approved box under the manufactured home.
  - c. Overhead conductors will have a clearance of three (3) feet from the manufactured home and any projections such as a television antenna.
15. All parks shall comply with all federal, state, and municipal fire protection laws and regulations.



F. Responsibilities of Park Licensee.

1. The licensee shall be responsible for verifying and certifying that all manufactured homes placed in the park meet or exceed minimum housing code standards established by the City.
2. The licensee shall be responsible for verifying that all manufactured homes placed in the park shall be provided with a HUD approved tie-down system.
3. The licensee shall be responsible for ensuring that all plumbing, heating, and electrical connections, alterations, and additions comply with the requirements of the conditional use permit; that all street signs and address numbers are installed; and that all relevant permits for all buildings and structures located on the lot, even those owned by residents, have been obtained.
4. The licensee shall be responsible for ensuring the proper placement of each manufactured home onto spaces within the manufactured home park. He or she shall also notify the City when manufactured homes are brought into or removed from the park.
5. The licensee shall be responsible for informing the park's residents of all applicable provisions of the conditional use permit and their responsibilities thereunder.
6. The licensee shall provide the City with the name, address, and phone number of the local park management (if different).

G. Manufactured Home Placement Permit.

1. It shall be unlawful for any manufactured home to be move into or relocated within the licensed manufactured home park unless the manufactured home meets the requirements of Chapter 17.68.06, is situated on a designated manufactured home space in compliance with an approved site plan, and a placement permit has been issued for the home as provided herein.
2. At least five (5) days prior to the move in or relocation date of the manufactured home within the manufactured home park, its owner(s) shall file an application for a placement permit with the Authorized Official. Once submitted, he or she shall schedule an inspection of the manufactured home and manufactured home space to verify compliance with all requirements of this Ordinance and any applicable portions of the manufactured home park's conditional use permit. The amount of the fee for a manufactured home placement permit shall be set by resolution of the City Council.

## 17.68.08 Sign Regulations.

- A. Purpose and Intent. Signs use private land and the sight lines created by public rights-of-way to inform and persuade the general public by conveying a message. The purpose of this Chapter is to prevent the uncontrolled use of signs through reasonable, consistent, and non-discriminatory sign standards. These regulations are not intended to censor speech or to regulate viewpoints, but instead are intended to address the secondary effects of signs, specifically those that impact aesthetics, traffic, and pedestrian safety. They are not intended to regulate objects that are not traditionally considered signs for purposes of governmental regulation.

The principal feature of this Chapter is the restriction on the total sign area permissible per lot. All signs shall be erected, altered, relocated, and/or maintained in conformance with the standards prescribed herein. The general objectives of these standards are to promote health, safety, and welfare, and to achieve the following:

1. Safety: To promote safety of persons and property by providing that signs:
  - a. Do not create a hazard due to collapse, fire, collision, decay, or abandonment; and
  - b. Do not create traffic hazards by confusing or distracting motorists; or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles; or to see and interpret any official traffic sign, signal, or device.
2. Communication Efficiency: To promote the efficient transfer of information by providing that:
  - a. Business and services may identify themselves;
  - b. Customers and other persons may locate a business or service; and
  - c. No person or group is arbitrarily denied the use at the sight line from public rights-of-way for communication purposes.
3. Landscape Quality and Preservation: To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
  - a. Do not create a nuisance to persons using the public rights-of-way; and

- b. Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, movement, or other physical characteristics.

B. Sign Contractors.

1. No person, firm, or corporation shall perform any work or services for compensation in connection with the erection, construction, enlargement, alteration, repair, moving, improvement, demolition, maintenance, or conversion of any sign, unless such person, firm, or corporation shall have obtained an annual sign contractor's license from the City and paid the license fees provided for herein. A sign contractor's license shall not be required for the demolition of a sign when such demolition is carried on in conjunction with the demolition of a principal or accessory structure on the lot and a demolition permit has been obtained pursuant to the provisions of the City Code.
2. The amount of the fee for the annual sign contractor's license shall be set by resolution of the City Council.
3. Licenses shall not be transferable. Licenses shall expire on January 1st of each year and are not renewable except as provided herein.
4. Every applicant for a sign contractor's license shall file a bond with the City in the amount of ten thousand dollars (\$10,000.00), with sureties to be approved by the City Attorney, the conditions of such bond to be faithfully in compliance with all other provisions of this Ordinance. Applicants shall file with the Finance Officer an executed agreement whereby applicant agrees to defend, at its own expense, indemnify and hold harmless the City, its employees, and officers from any and all claims, suits, losses, damages, costs or expenses, including attorneys fees and court costs, by reason of liability imposed upon the City, its employees, and officers for damages because of bodily injury, including death, at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, both real and personal, including the loss of use thereof, arising out of or the consequence of the applicant's performance as a sign contractor, except only such injury or damage as shall be occasioned by the sole negligence of the City, its employees, or officers.
5. The bond shall be kept in force and effect for a period of one (1) year after cancellation or termination of the license. The bond shall run concurrent with the sign contractor's license and expire on the first day of January of each year. The conditions of the bond to be faithfully in compliance with all other provisions of this Chapter.

C. Sign Painters.

1. No person, firm, or corporation other than a licensed sign contractor shall perform any work or services for compensation as a sign painter without first obtaining a sign painter's license from the Finance Officer and paying the license fee provided herein. This license covers sign painting only.
2. The amount of the fee for the annual sign painter's license shall be set by resolution of the City Council.
3. Licenses shall not be transferable. Licenses shall expire on January 1<sup>st</sup> of each year and are not renewable except as provided herein.
4. Every applicant for a sign painter's license shall file a bond with the City in the amount of ten thousand dollars (\$10,000.00) kept in full force and effect for a period of one year after cancellation or termination of the license. The bond shall run concurrent with the sign painter's license and expire on the first day of January each year. The conditions of the bond to be faithfully in compliance with all other provisions of this Chapter.

D. Sign Permit.

1. Permit Required. Except as otherwise provided herein, it shall be unlawful for any person to erect, alter, relocate, or maintain any sign without obtaining a sign permit from the City.
2. Permit Application. An application for a sign permit shall be submitted to the Authorized Official on a form as he or she may prescribe and shall include all information as may be required for a complete understanding of the proposed sign and all other information to show full compliance with this Ordinance and all other federal, state, and local laws.

If the Authorized Official determines that the proposed sign conforms to the requirements of this Ordinance and all other federal, state, and local laws, he or she shall issue the permit as soon as practicable.

3. Validity of Permit. The issuance or granting of a sign permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Ordinance or of any other federal, state, or local law. Permits presuming to give authority to violate or cancel the provisions of this Ordinance or of any other federal, state, or local law shall not be valid.
4. Expiration. Every sign permit issued shall expire after one hundred-eighty (180) days unless the sign authorized by such permit is

completely erected, altered, or relocated within that time. If an inspection has not been requested after one hundred-eighty (180) days of permit issuance and the permit has not been extended, the permit shall expire without notice. The Authorized Official is authorized to grant, in writing, one (1) extension of time for a period of not more than one hundred-eighty (180) days. The extension shall be requested in writing and justifiable cause demonstrated.

5. Suspension or Revocation. The Authorized Official is authorized to suspend or revoke a sign permit issued under the provisions of this Ordinance whenever the permit has been issued in error; on the basis of incorrect, inaccurate, or incomplete information supplied by the applicant; or if he or she determines that the sign subject to the permit was erected, altered, relocated, or maintained in violation of this Ordinance or of any other federal, state, or local law.
  6. Application Fee. An application fee shall be paid to the City for each sign permit required by this Chapter in an amount set by resolution of the City Council. All applicable fees shall be paid prior to the Authorized Official's review of the application.
  7. Sign Maintenance. Maintenance of legally permitted signs or signs existing prior to the effective date of this Ordinance is allowed and shall not require a sign permit. Sign maintenance includes, but is not limited to, the replacement or repair of a part or portion of a sign required by wear, tear, or damage, with like material, color, and design.
  8. Non-Issuance Due to Existing Illegality. Unless necessary to protect the health, safety, and general welfare of the community, a permit for a new sign shall not be issued for a lot upon which there exists an illegal sign.
  9. Assignment. A current and valid permit is freely assignable to a successor as owner of the lot.
  10. Building Permit Not Required. If a permit has been issued pursuant to this Chapter, the applicant is not required to obtain a separate building permit for the sign.
- E. Signs Not Regulated. The following signs shall be allowed in addition to the signs expressly permitted by this Ordinance. They do not require a sign permit, but shall be in conformance with all other federal, state, and local laws.
1. Names of buildings, dates of erection, monumental citations, commemorative tablets and the like, of permanent-type construction and made an integral part of the building structure.

2. Street address or building identification signs necessary for first responders and other emergency personnel to locate the building or lot as necessary to respond to any fire or public safety emergency.
3. Signs located entirely inside of a building or other enclosed place.
4. Signs affixed to or painted on a display window.
5. Signs erected by the City or other governmental entity.
6. Signs regulated, approved, or otherwise required by state or federal agencies including, but not limited to, historical marker signs, official traffic control devices, etc.
7. Signs on vehicles regularly and customarily used to transport persons or property so long as they are not parked or otherwise located on a lot primarily for the purpose of displaying the signs.
8. Holiday lights and decorations displayed during the appropriate time of year.
9. National, state, or historical flags or their emblem or insignia.

F. Prohibited Signs.

1. Signs that imitate an official traffic sign or signal or that are of a size, location, movement, content, coloring, or manner of illumination that may be confused with or construed as a traffic control device.
2. Signs attached to trees, telephone poles, public benches, street lights, street signs, or placed on any public property or public right-of-way unless permission is granted in writing by the City.
3. Signs which obstruct any required ingress or egress from a building or structure.
4. Abandoned signs.
5. Signs placed on vehicles or trailers which are parked or otherwise located on a lot primarily for the purpose of displaying the signs.
6. Any sign that is not protected by either federal or state law, or otherwise allowed by this Ordinance.

G. General Regulations. The following regulations shall apply to all signs unless otherwise indicated:

1. Except as required by law, no sign may be displayed without the consent of the legal owner of the lot on which the sign is located. For purposes of this Chapter, the term “owner” shall mean the holder of the legal title to the lot and any party and person holding a present legal right to possession, control, or use of the lot.
2. Except as required by law or otherwise permitted by the City, any sign installed or placed on public property or within the public rights-of-way shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of the such sign.
3. A projecting sign may project no more than five (5) feet from the building or structure face. In such situations, the sign shall have a minimum clearance of ten (10) feet above any yard or sidewalk and sixteen (16) feet above any road, alley, or drive.

H. Permanent Signs. The requirements set forth herein shall apply to all permanent signs:

1. General Standards. All permanent signs shall conform to the following standards:
  - a. All signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a wall, frame, or other sign structure.
  - b. All signs shall be constructed to withstand a wind load of thirty (30) pounds per square foot.
  - c. Signs shall be maintained in a safe and legible condition at all times. Signs which are not maintained shall be deemed to be either unsafe or unlawful by the Authorized Official and shall be removed unless brought into compliance immediately upon written notice. Any expense incurred by the City during the removal of a private sign shall be the responsibility of its owner.
2. Lots Containing a Single-Family Detached Dwelling or Single-Family Attached Dwelling(s).
  - a. Each lot containing a single-family detached dwelling, single-family attached dwelling, or manufactured home may have one (1) wall sign per dwelling unit if there is an approved Home

Occupation. Each sign shall be a maximum of two (2) square feet in area.

3. Lots Containing a Manufactured Home Park. Signs within manufactured home parks shall be regulated in conformance with Chapters 17.68.06 and 17.68.07.
4. Lots Containing a Multiple-Family Dwelling.
  - a. One (1) wall sign may be attached to each principal building. However, principal buildings with two (2) or more frontages shall be allowed to have one (1) wall sign for each frontage. No more than one (1) sign shall face any one (1) frontage. Each sign shall have a maximum area of thirty-two (32) square feet.
  - b. One (1) freestanding sign shall be permitted per lot. It shall not exceed thirty-two (32) square feet in area and be taller than six (6) feet above grade.
  - c. Each individual dwelling unit within a multi-family dwelling if immediately accessed through an exterior door may have one (1) wall sign per dwelling unit if there is an approved Home Occupation. Each sign shall be a maximum of two (2) square feet in area.
5. Lots Containing a House of Worship or School.
  - a. One (1) wall or freestanding sign not exceeding one hundred (100) square feet. If placed as a freestanding sign, it shall not exceed nine (9) feet above grade.
  - a. One (1) additional wall sign shall have a maximum area of twenty-five (25) square feet.
  - b. One (1) additional freestanding sign not exceeding thirty-two (32) square feet in area and no taller than six (6) feet above grade.
  - c. If more than one (1) freestanding sign is erected on the lot, the signs shall be spaced at least fifty (50) feet apart.
6. AG Lots Not Containing a Dwelling, House of Worship, or School.
  - a. One (1) wall sign may be attached to each principal building. It shall have a maximum area of one (1) square foot per two (2) feet of lineal street frontage with a total maximum of twenty-two (22) square feet.



- b. One (1) freestanding sign shall be permitted per lot. It shall not exceed thirty-two (32) square feet in area and be no taller than eight (8) feet above grade.
7. R-1, R-2, R-3, R-4, and R-5 District Lots Not Containing a Dwelling, House of Worship, or School.
- a. One (1) wall sign may be attached to each principal building. It shall have a maximum area of ten (10) square feet.
  - b. One (1) freestanding sign shall be permitted per lot. It shall not exceed thirty-two (32) square feet in area and be no taller than six (6) feet above grade.
8. CB-1 Lots.
- a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed two (2) square feet per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. No portion of any wall, roof, or projecting sign may exceed the height of the building or structure to which it is attached.
  - b. Freestanding signs shall be permitted so long as their cumulative total area per lot does not exceed one (1) square foot per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. No freestanding sign shall be taller than forty-five (45) feet above grade.
  - c. Freestanding signs shall be limited to one (1) per street frontage. However, lots with multiple frontages or corner lots may erect one (1) sign on each frontage. For corner lots, neither sign may cross over the assumed vertical plane which bisects the angle of the corner.
9. CB-2 Lots.
- a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed two (2) square feet per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. No portion of any wall, roof, or projecting sign may exceed the height of the building or structure to which it is attached.
  - b. Freestanding signs shall be permitted so long as their cumulative total area per lot does not exceed one (1) square foot per one (1)

foot of lineal street frontage with a total maximum of two hundred (200) square feet. No freestanding sign shall be taller than eighteen (18) feet above grade.

- c. Freestanding signs shall be limited to one (1) per street frontage. However, lots with multiple frontages or corner lots may erect one (1) sign on each frontage. For corner lots, neither sign may cross over the assumed vertical plane which bisects the angle of the corner.

10. HC District Lots.

- a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed either three (3) square feet per one (1) foot of lineal building frontage or one (1) square foot per one (1) foot of lineal street frontage, whichever is less. Roof and projecting signs may not be located higher than five (5) feet above the building’s roof line.
- b. Freestanding signs shall have a maximum permitted sign area and height as set forth below:

<b>Street Frontage</b>	1-50’	51-100’	101-150’	151-200’	201-250’	251-300’	300’+
<b>Maximum Sign Area (sq. ft.)</b>	32	64	96	128	160	192	300
<b>Maximum Sign Height</b>	20’	25’	25’	25’	45’	45’	45’

11. GB District Lots.

- a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed three (3) square feet per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. Roof and projecting signs may not be located higher than the building’s roof line.
- b. Freestanding signs shall be permitted so long as their cumulative total area per lot does not exceed one (1) square foot per one (1) foot lineal street frontage with a total maximum of two hundred (200) square feet. If more than one (1) freestanding sign is erected on the lot, the signs shall be spaced at least fifty (50) feet apart. No freestanding sign shall be taller than twenty (20) feet above grade.

12. I District Lots.

- a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed one (1) square foot per three (3) feet of lineal street frontage.
- b. Freestanding signs shall have a maximum permitted sign area and height as set forth below:

<b>Street Frontage</b>	1-100'	101-150'	151-200'	201-300'	300'+
<b>Maximum Sign Area (sq. ft.)</b>	32	48	64	80	100
<b>Maximum Sign Height</b>	18'	20'	20'	25'	25'

If more than one (1) freestanding sign is erected on the lot, the signs shall be spaced at least fifty (50) feet apart.

- c. Any sign that exceeds two hundred (200) square feet in area must be located at least five hundred (500) feet from a residentially zoned district or another sign two hundred (200) square feet in area or larger.

I. Temporary Signs.

- 1. General Standards. All temporary signs shall conform to the following standards:
  - a. No temporary sign may be illuminated in any manner.
  - b. Any temporary sign large than nine (9) square feet in area shall be located at least ten (10) feet from all lot lines.
  - c. Signs shall be kept in good repair. Faded, torn, damaged, or otherwise unsightly signs must be repaired or removed. Signs which are not maintained shall either be removed or brought into compliance immediately upon written notice. Any expenses incurred by the City during the removal or maintenance of a private sign shall be the responsibility of its owner.
  - d. Signs shall be securely attached to a sign support, building, or other structure.

2. Temporary Signs Requiring a Permit. Unless it is exempt from requiring a permit in conformance with Chapter 17.68.08(I)(3), a lot's temporary signs shall be limited to the following:
  - a. R-1, R-2, R-3, R-4, and R-5 Districts.
    - (1) One (1) wall or freestanding signing shall be allowed for up to sixty (60) days if it is larger than nine (9) square feet, but equal to or less than thirty-two (32) square feet in area. If it is a freestanding sign, it cannot be taller than four (4) feet above grade.
  - b. AG, CB-1, CB-2, HC, GB, and I Districts.
    - (1) Two (2) temporary signs shall be allowed per calendar year so long as they do not cumulatively exceed two hundred (200) square feet in area. Any such temporary sign shall be allowed for no longer than sixty (60) days. Any such temporary sign shall be located at least fifteen (15) feet from all lot lines.
3. Temporary Signs Not Requiring a Permit. A temporary sign that complies with the following standards does not require a permit.
  - a. R-1, R-2, R-3, R-4, and R-5 Districts.
    - (1) One (1) wall or freestanding sign shall be allowed per lot for up to sixty (60) days per calendar year so long as it does not exceed nine (9) square feet in area. If it is a freestanding sign, it cannot be taller than four (4) feet above grade.
    - (2) One (1) additional wall or freestanding sign shall be allowed per lot for up to thirty (30) consecutive days during a special event so long as it does not exceed nine (9) square feet in area. If it is a freestanding sign, it cannot be taller than four (4) feet above grade.
    - (3) One (1) additional wall or freestanding sign shall up to nine (9) square feet in area shall be allowed per lot during any period of time in which the lot is available for sale, lease, or rent. If it is a freestanding sign, it cannot be taller than four (4) feet above grade.

b. AG, CB-1, CB-2, HC, GB, and I Districts.

- (1) Two (2) wall or freestanding signs shall be allowed per lot for up to sixty (60) days per calendar year so long as no individual sign exceeds nine (9) square feet in area. If either or both is a freestanding sign, it cannot be taller than five (5) feet above grade.
- (2) Two (2) additional wall or freestanding signs shall be allowed per lot for up to (30) consecutive days during a special event so long as no individual sign exceeds thirty (30) square feet in area. If either or both is a freestanding sign, it cannot be taller than five (5) feet above grade.
- (3) One (1) additional wall or freestanding sign up to forty-five (45) square feet in area shall be allowed per lot during any period of time in which the lot is available for sale, lease, or rent. If it is a freestanding sign, it cannot be taller than five (5) feet above grade.

J. Portable Signs. A permit is required prior to the placement of a portable sign. The applicant may, after obtaining a permit therefor from the City, locate a portable sign in the permitted location for a period not to exceed sixty (60) days per calendar year. A separate permit shall be required for each sign. Permits may be issued for terms of either fifteen (15) or thirty (30) days and permit holders will be charged for the full term for which the permit is issued. Subsequent permits shall not be issued until thirty (30) days have elapsed following the expiration of fifteen (15) day periods and sixty (60) days following a thirty (30) day permit. Permits for two (2) or more portable signs may be issued at a permitted location if the permits are of equal duration and run concurrently.

Portable signs shall meet the following standards:

1. No portable sign may be located on a lot containing a single-family attached or detached dwelling.
2. Sign shall not exceed thirty-two (32) square feet in area.
3. Sign shall not be located closer than ten (10) feet to a lot line.
4. Portable signs shall be adequately secured to prevent overturning.

K. Inflatable Signs. High flying, helium, ground, and roof inflatable signs shall meet the following standards:

1. No inflatable sign may be located on a lot containing a single-family attached or detached dwelling.
2. On lots with a total street frontage of less than three hundred (300) feet, including corner lots, only one (1) inflatable sign may be allowed at a time. Lots with a total street frontage equal to or more than three hundred (300) feet may display a maximum of two (2) inflatable signs at a time.
3. The maximum size of a ground-mounted inflatable sign shall be fifteen (15) feet wide by thirty (30) feet high. The maximum size of a roof-mounted inflatable sign shall be twenty-five (25) feet wide by thirty (30) feet high. The maximum volume of a high-flying inflatable sign shall be five hundred (500) cubic feet.
4. Inflatable signs shall not be located closer than ten (10) feet to a lot line.
5. No roof-mounted inflatable signs shall be permitted in the ARO: Airport-Restricted Overlay District.
6. Inflatable signs shall be adequately secured. Cabling, tie-downs, or tether lines shall not be located on or across public property.

L. Electronic Message Signs. Any permitted signs may be, or may include as an individual component of the total allowable sign area, electronic message signs, except that such signs displaying a flashing or traveling message are prohibited. Electronic messages or graphic displays may be changed at periodic intervals by various entry and exit display modes, provided that the maximum message time for a multiframe message shall be ten (10) seconds with up to five (5) display changes per sequence.

All electronic signs located in or within one hundred fifty (150) feet of a residential zoning district shall require a conditional use permit.

M. Illumination Standards. Regulations regarding the illumination of signs shall be as follows:

1. Shading. The light from any illuminated sign shall be so shielded, shaded, or directed so that the light intensity shall not adversely affect surrounding or facing lots or safe vision of operators of vehicles on public or private roads.
2. Blinking and Flashing. Blinking, flashing, pulsating, or fluttering lights, or other illuminated devices, which have a changing light, shall be

permitted by conditional use permit. All such signs located in or within one hundred fifty (150) feet of a residential zoning district shall require a conditional use permit.

M. Removal of Unsafe, Unlawful, or Abandoned Signs.

1. Unsafe or Unlawful Signs.

- a. Upon written notice from the City, the sign's owner shall either bring the sign into compliance with the terms of this Ordinance or remove the sign when it becomes unsafe, is in danger of falling, becomes so deteriorated that it no longer serves a useful purpose of communication, the City determines it to be a nuisance, it is deemed unsafe by the City, or it is unlawfully erected in violation of this Chapter.
- b. The City may remove or cause to be removed the sign at the expense of its owner if the sign has not been brought into compliance with the terms of this Ordinance within thirty (30) days of the date of the notice. In the event the sign poses an immediate danger to the public, the City may remove the sign immediately upon the issuance of notice to its owner.

2. Abandoned Signs.

- a. It shall be the responsibility of the owner of any lot upon which an abandoned sign is located to remove such sign within one hundred-eighty (180) days of the sign becoming abandoned as defined in this Ordinance. Removal of an abandoned sign shall include the removal of the entire sign copy. If it is a temporary or portable sign, the entire sign structure shall be removed as well.
- b. Where the owner of the lot upon which an abandoned sign is located fails to remove such sign in one hundred-eighty (180) days, the City may remove such sign. Any expense directly incurred in the removal of such sign shall be charged to the owner of the lot.

**17.68.09 Off-Street Parking Requirements.**

A. General Requirements.

1. Front Yard.

- a. AG District: Parking spaces are allowed; parking spaces within the setback are allowed only by conditional use; all required parking spaces shall be hard surfaced.
- b. R-1, R-3, and R-5 Districts: Parking spaces are allowed within the front yard and setback. All parking spaces shall be hard surfaced. If R-5, see subsection (d) below, if applicable.
- c. R-2 and R-4 Districts: Parking is prohibited within the front yard and setback. For purposes of this Chapter, the front lot line shall be the lot line bounding the “ordinary high-water line” for littoral lots and the lot line on the lakeside of the lot for non-littoral lots. See Chapters 17.20.10 and 17.28.10.
- d. Manufactured Home Parks in the R-5 District: Parking spaces within manufactured home parks shall be regulated in conformance with Chapter 17.68.07.
- e. CB-1, CB-2, HC, and GB Districts: Parking spaces are allowed within the front yard and setback. All parking spaces shall be hard surfaced.
- f. I District: Parking spaces are allowed within the front yard and setback. All required parking spaces shall be hard surfaced.

2. Side Yard.

- a. AG, R-1, R-2, R-3, R-4, and R-5 Districts: Parking spaces are allowed, so long as they are not within three (3) feet of the lot line. Any parking space, parking pad, or driveway in the side yard shall be hard surfaced and be located next to a garage or on only one (1) side of a house with no garage.
- b. Manufactured Home Parks in the R-5 District: Parking spaces within manufactured home parks shall be regulated in conformance with Chapter 17.68.07.
- c. CB-1, CB-2, HC, and GB Districts: Parking spaces are not allowed within the setbacks; however, they are allowed within the side yard and shall be hard surfaced.
- d. I District: Parking spaces within the side yard and setbacks are allowed. Any required parking spaces within the side yard shall be hard surfaced.



3. Rear Yard.
  - a. AG, R-1, R-3, and R-5 Districts: Parking spaces are not allowed within the setback; however, they are allowed within the rear yard only by conditional use and shall be hard surfaced. If R-5, see subsection (c) below, if applicable.
  - b. R-2 and R-4 Districts: Parking spaces are allowed within the rear yard and setback. For purposes of this Chapter, the front lot line shall be the lot line bounding the “ordinary high-water line” for littoral lots and the lot line on the lakeside of the lot for non-littoral lots; therefore, the rear yard is typically on the opposite/street side of the lot from the front yard. See Chapters 17.20.10 and 17.28.10.
  - c. Manufactured Home Parks in the R-5 District: Parking spaces within manufactured home parks shall be regulated in conformance with Chapter 17.68.07.
  - d. CB-1, CB-2, HC, and GB Districts: Parking spaces are allowed so long as they are not within the setback. All parking spaces shall be hard surfaced.
  - e. I District: Parking spaces within the rear yard and setback are allowed. All required parking spaces in the rear yard shall be hard surfaced.
4. CB-1, CB-2, HC, and GB Districts: Loading areas, access aisles, and maneuvering and drive areas may be located within setbacks only by conditional use permit and shall be hard surfaced.
5. I District: Loading areas, access aisles, and maneuvering and drive areas shall be hard surfaced and may be located within the side and rear setbacks. Loading areas, access aisles, and maneuvering and drive areas shall be hard surfaced and may be located within the front yard setback only by conditional use permit.
6. No driveway(s) shall exceed a width of thirty (30) feet or half of the width of the lot at the lot line, whichever is less.
  - a. Exception for I District: The total cumulative width of driveways per lot shall not exceed eighty (80) feet at the lot line.
7. Each parking space shall be of sufficient size to park a standard consumer automobile or at least two hundred fifty (250) square feet, whichever is greater. All parking spaces shall be provided with

vehicular access to a street, whether directly through a driveway or indirectly through one (1) or more access aisles.

8. Except in conjunction with a legal non-conforming business, it is unlawful for any person to park, store, leave, or permit the parking, storage, or leaving of any commercial vehicle, with a manufacturer’s gross vehicle weight rating over ten thousand (10,000) pounds on an AG, R-1, R-2, R-3, R-4, or R-5 District lot, unless the vehicle is parked in connection with the performance of a service. The transferring of refuse from a smaller satellite vehicle to a large packer garbage truck is prohibited.
9. Automobile vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned lot other than in completely enclosed buildings.
10. All required off-street parking and loading space requirements shall be located on the same lot as its principal building, structure, or use unless the Board of Adjustment determines that either or both cannot be reasonably provided as such. In such an event, the Board of Adjustment may allow by conditional use permit either or both to be located on another lot within four hundred (400) feet of the primary entrance to the principal building, structure, or use to which the space(s) are provided. See Chapter 17.96.

B. Required Parking Spaces.

In computing the number of required off-street parking spaces, the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional spaces result, the parking spaces required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all Districts, see Table 2 below:

TABLE 2: Minimum Off-Street Parking Space Requirements

<u>Uses &amp; Structures</u>	<u>Minimum Parking Requirements</u>
Single-Family and Two-Family Dwellings	Two (2) spaces for each dwelling unit.
Multiple-Family Dwellings	One (1) space for each dwelling unit of two (2) bedrooms or less. Two (2) spaces for each dwelling unit of three (3) bedrooms or more.
Vacation Rentals By Owner (VRBOs)	One (1) space for each two (2) occupants over the age of eighteen (18).

Golf Courses	Three (3) spaces for each golf hole, plus one (1) space for each two (2) employees.
House of Worship	One (1) space for each four (4) seats in main setting area.
Private Club or Lodge	One (1) parking space for each three hundred (300) square feet of floor area.
Elementary, Middle, and High Schools	Four (4) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
Eating and Drinking Establishments	One (1) space for each one hundred (100) square feet of gross floor area or one (1) space for each three (3) seats, whichever is greater.
Hospitals	One (1) space for each bed.
Nursing, Convalescent, and Rest Homes	One (1) space for each three (3) beds.
Auditoriums, Theaters and Places of Public Assembly	One (1) space for each four (4) seats of design capacity.
Hotels and Motels	One (1) space for each two (2) rental rooms.
Funeral Homes	One (1) space for each four (4) seats in the chapel.
Retail Sales Establishments	One (1) space for each three hundred (300) square feet of floor area.
Medical and Dental Clinics	One (1) space for each two (2) staff members and full-time employees, plus one (1) space for each six hundred (600) square feet of gross floor area.
Manufactured Home Parks	Two (2) spaces for each manufactured home lot.
Industrial Uses	One and one-half (1 ½) spaces for each two (2) employees on the maximum working shift.
Service Establishments	One (1) space for each three hundred (300) square feet of floor area.
Wholesale and Distribution Establishments	One (1) space for each two (2) employees on the maximum working shift.

Day Care Center, Preschool	One (1) space for each employee on the maximum working shift, plus one (1) space for each ten (10) persons the facility is licensed to enroll. Additional parking or designated area for drop-off and pick-up may be required.
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All other uses not specified above shall have minimum off-street parking and off-street loading spaces as determined by the Board of Adjustment.

For Conditional Uses, the number of required off-street parking spaces may be adjusted by the Board of Adjustment in order to protect the health, safety, and welfare of the public.

**17.68.10 Off-Street Loading Requirements.** There shall be provided at the time any building is erected or structurally altered, off-street loading spaces for the following uses:

TABLE 3: Minimum Off-Street Loading Area & Space Requirements

<u>Use</u>	<u>Gross Square Feet Floor Area</u>	<u>Number of Off-Street Loading Spaces (Located Next to Building)</u>
Office Buildings	25,000 - 50,000 every additional 75,000	One 14' x 35' space Add one 14' x 35' space
Retail, Service and Trade Establishments and Industrial and Wholesale Commercial	5,000 - 20,000 20,000 - 100,000 Every additional 75,000	One 14' x 35' space Two 14' x 35' spaces Add one 14' x 35' space

For Conditional Uses, the off-street loading requirements may be adjusted by the Board of Adjustment in order to protect the health, safety, and welfare of the public.

**17.68.11 Site-Built Single-Family Detached, Single-Family Attached, and Multiple-Family Dwelling Standards.** Site-built single-family detached, single-family attached, and multi-family dwellings shall conform to the following standards:

- A. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home shall be enclosed by concrete, approved concrete products, or another commercially acceptable material suitable for the same purpose.
- B. All dwellings shall be oriented on the lot so that the primary pedestrian entrance faces the street or access easement.

- C. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. Corrugated metal is not a permitted roofing material.
- D. Exterior walls shall be constructed of materials commonly used on the exterior walls of residential structures, such as: brick, concrete composite board, artificial or natural stone, exterior grade natural or composite wood, stucco, or residential lap siding made of vinyl, steel, or aluminum with no exposed fasteners.

If these standards conflict with or fall below the standards of the current building codes adopted by the City, the standards contained within the building codes shall control.

**17.68.12 Wireless Communications Facilities.**

- A. Purpose. The purpose of this Chapter is to establish reasonable, uniform, and comprehensive standards and procedures wireless communication facility deployment, installation, collocation, modification, operation, relocation, and removal within the City, consistent with and to the extent permitted by federal and state law. The standards and procedures contained in this Chapter are intended to, and should be applied to, protect and promote the public health, safety, and welfare, and also balance the benefits of a robust, advanced wireless network with the City’s local values.

This Chapter is not intended to, nor shall it be interpreted or applied to:

- 1. Prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services to the community;
- 2. Unreasonably discriminate amongst providers of functionally equivalent services;
- 3. Deny any request for authorization to place, construct, or modify any wireless communication facility on the basis of the environmental effects of radio emissions to the extent that the facility complies with the FCC’s regulations concerning such emissions; or
- 4. Prohibit any collocation or modification that the City may not deny under federal or state law.

- B. General. This Chapter applies to all existing wireless communication facilities within the City and all applications and requests for approval to construct, install, modify, collocate, relocate, or otherwise deploy such facilities on privately owned lots within the City. Notwithstanding the aforementioned, the provisions of this Chapter shall not be applicable to:

1. Wireless communications facilities owned and operated by the City for public purposes.
2. Any tower, or the installation of any antenna, that is forty (40) feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna.
3. Any wireless facility for which a permit has been properly issued that was lawfully erected prior to the effective date of this Ordinance shall not be required to meet the requirements of Chapter 17.68.12(C)(3) unless there has been a cessation of operations for six (6) months.
4. Wireless communications facilities installed completely indoors and intended to extend signals of personal wireless services in a residence or business.
5. Small cell wireless communications facilities installed in the public rights-of-way or entirely within enclosed buildings.

C. New Wireless Communication Facility Requests.

1. Permit Required. No new wireless communication facility shall be installed until an applicant or operator has obtained a conditional use permit, which meets the requirements of Chapter 17.68.12(C)(3) below.
2. Permit Application. In addition to the requirements of Chapter 17.96 for all conditional use permit applications, the following information is required:
  - a. Documented evidence that the applicant holds all current licenses and registrations from the FCC and any other applicable regulatory body where such license(s) and/or registration(s) are necessary to provide wireless communications services utilizing the proposed facility.
  - b. An inventory of the applicant's existing facilities that are either within the City or within one-quarter (1/4) mile of the City's boundary, including a map showing the location of the lot that is the subject of the application. The inventory shall provide specific information about the location, height, power rating, frequency range, and design of each facility.
  - c. A list of all existing structures considered as alternatives to the proposed location, together with a general description of the site design considered at each location. The applicant must also provide a written explanation for why the alternatives

considered were either unacceptable, infeasible, unavailable, or otherwise inconsistent with the requirements of Chapter 17.68.12(C)(3). If an existing wireless facility is listed among the alternatives, the applicant must specifically address why the collocation or modification of that facility is not a viable option.

- d. Photographs and photo simulations showing the proposed facility superimposed on the site and surroundings from reasonable line-of-site locations from public streets or other adjacent viewpoints, together with a map that identifies that photo location of each view angle.
  - e. All site plans, photographs, and photo simulations shall include a scaled depiction of the maximum permitted increase as authorized by Section 6409(a) of the 2012 Middle Class Tax Relief Act, as amended, using the proposed facility as a baseline.
  - f. A written statement of the applicant's willingness to allow other carriers to collocate on the proposed facility whenever technically feasible and aesthetically desirable.
3. General Requirements. Wireless facilities shall be designed and maintained as follows:
- a. All new facilities shall be located at least three hundred (300) feet from a residentially zoned or used property, as measured from the base of the facility (including accessory equipment) to the lot line.
  - b. Wireless telecommunication towers and base stations over ninety (90) feet in height shall not be located within one-quarter (1/4) mile from any existing tower or base station that is over ninety (90) feet in height.
  - c. The maximum height of wireless telecommunication towers shall not exceed one hundred (100) feet for single service providers or two hundred (200) feet for two or more service providers. If such a structure is located within an airport approach zone, Federal Aviation Administration approval will be required prior to the issuance of any permits.
  - d. Roof-mounted or façade-mounted facilities shall not exceed or project more than fifteen (15) feet above the existing height of the base station.

- e. Facilities shall have subdued colors and non-reflective materials which blend with the materials and colors of the surrounding area and structures.
  - f. The facilities shall bear no signage except those required by law.
  - g. To the extent feasible and aesthetically compatible, all facilities should be designed and sited in a manner that accommodates future collocations and equipment installations that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to its outward appearance.
  - h. All cables and connectors for telephone, primary electric, and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. Meters, panels, disconnect switches, and other associated improvements must be placed in inconspicuous locations where possible. The Board of Adjustment shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the cost of the project.
  - i. All wireless telecommunication towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be designed in such a manner or equipped with an appropriate device to make it inaccessible for unauthorized persons to climb.
  - j. Facilities shall not be artificially lighted, unless required by the FAA or another governmental entity. If lighting is required, the Board of Adjustment shall review the available lighting alternatives and approve the design that would cause the least disturbance to adjacent and abutting lots.
4. Application Review. Each conditional use permit application shall be submitted to the Authorized Official. Under federal law, the Authorized Official, within thirty (30) days of the receipt of the application, shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Authorized Official informs the applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the applicant provides the requested information.



If the application is deemed incomplete, an applicant may submit additional materials to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application.

After meeting with the applicant, the Authorized Official shall review the substantive contents of the application and make a recommendation to the Board of Adjustment to either approve or deny the application. The Authorized Official's recommendation shall include a summary of the application, and the reasons and justifications for either approval or denial of the application.

The Authorized Official shall set the date, time, and place for a public hearing to be held by the Board of Adjustment. No less than ten (10) days prior to the scheduled public hearing, the Authorized Official shall notify the landowner and applicant by mail, post notices at City Hall and on the lot effected by the proposed conditional use permit, and publish notice of the public hearing in the City's legal newspaper(s).

The public hearing shall be held. Any applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment.

The Board of Adjustment with an affirmative vote of the majority of its members, may grant the conditional use permit with such conditions and safeguards as are appropriate to protect the health, safety, and welfare of the community. The decision of the Board of Adjustment shall be filed unless an appeal is filed in conformance with Chapter 17.96.09.

The Board of Adjustment shall either issue the conditional use permit or issue a written statement of denial within one hundred fifty (150) days of the submission of the initial application unless:

- a. The Authorized Official notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred fifty (150) day total review time is tolled until the applicant provides the missing information; or
- b. An extension of time is agreed to by the applicant and City.

Failure to approve the conditional use permit or issue a written denial within one hundred fifty (150) days shall constitute an approval of the application, but, instead, shall create only a rebuttable presumption that the failure to act timely was not reasonable under 47 U.S.C. 332(c)(7)(B)(ii).

5. Findings Required for Approval. The Board of Adjustment shall not grant the conditional use permit unless it finds as follows:
  - a. All applicable requirements of Chapters 17.96 and 17.68.12(C)(3) are met; or
  - b. The applicant has demonstrated by clear and convincing evidence that the facility is necessary to close a significant gap in the service provider's coverage. Such evidence shall include in-kind call testing of existing facilities within the area the applicant contends is a significant gap in coverage to be served by the facility; and
  - c. The applicant has demonstrated by clear and convincing evidence that no feasible alternative site exists that would close a significant gap in the service provider's coverage which alternative site is a more appropriate location for the facility under the standards.

D. Mandatory Collocation or Modification Requests.

1. Purpose. This Section is intended to comply with the City's obligations under federal law, which provides that the City "may not deny, and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." (47 U.S.C. § 1455, subd. (a)(1), adopted as Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156.) This Section creates a process for the City to review an application for a wireless facility minor modification permit submitted by an applicant who asserts that a proposed collocation or modification to an existing personal wireless telecommunications facility is covered by federal law and to determine whether the City must approve the proposed collocation or modification. The City's review of these applications is structured to comply with the requirements of 47 U.S.C. § 1455 and the FCC's regulations implementing this federal law, adopted on December 17, 2014 and codified at 47 C.F.R. §§ 1.40001, et seq. This Section is intended to promote the public health, safety, and welfare, and shall be interpreted consistently with the Telecommunications Act of 1996 (Pub. L. No. 104-104, 110 Stat. 56), Title 47 U.S.C. § 1455, and all applicable FCC regulations and court decisions considering these laws and regulations.
2. Minor Modification Permit.

- a. Permit Required. An applicant seeking approval of a collocation or modification to an existing wireless telecommunications facility which he or she contends is within the protection of 47 U.S.C. § 1455 shall apply for a Minor Modification Permit. No collocation or modification to an existing wireless telecommunications facility shall be installed unless the applicant obtains the permit.
  
- b. Permit Application. All applications for a minor modification permit must include the following items:
  - (1) Legal description and/or address of the lot upon which the existing facility is located.
  - (2) Name, address, and phone number of the owner of the lot which is the subject of the application.
  - (3) Name, address, and phone number of the owner of the existing facility.
  - (4) Name, address, and phone number of the applicant, if different than the owner of the existing facility.
  - (5) The zoning district and principal land use classification(s) under which the lot is regulated at the time of the application.
  - (6) A site plan of sufficient clarity to indicate the location, nature, and extent of the building or work proposed. Where applicable, all site plans shall contain the following information:
    - (a) The legal description or address of the lot shown on the site plan.
    - (b) A north arrow.
    - (c) All existing and proposed buildings, structures, or additions thereto, with information regarding their dimensions, height, and number of stories.
    - (d) Distance from all building lines to the lot lines at the closest points.
    - (e) Dimensions of all lot lines.

All plans shall not be changed, modified, or altered, and all work shall be performed in accordance with the approved plans.

- (7) Be signed by the applicant, who may be required to submit evidence to indicate such authority if the lot has more than one owner.
- (8) Any other information concerning the lot or the proposed work as may be requested by the Authorized Official.

- c. Application Review. Each application for a minor modification permit shall be reviewed by the Authorized Official. Under federal law, the Authorized Official, within thirty (30) days of receipt of the application, shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Authorized Official informs the applicant of an incomplete application within thirty (30) days, the overall timeframe for review is tolled until such time the applicant provides the requested information.

If the application is deemed incomplete, an applicant shall submit the missing materials to the Authorized Official within sixty (60) business days after receipt of the written notice. Failure to complete the application within that timeframe shall constitute a withdrawal of the application.

The Authorized Official must approve or deny an application for a minor modification permit, together with any other City/Town permits required for a proposed collocation or modification to an existing facility, within sixty (60) days after the applicant submits the application, unless tolled due to issuance of any notice of incomplete filing or by mutual agreement between the City and the applicant. Under federal law, failure to act on a minor modification permit within the sixty (60) day review period, excluding tolling period, will result in the permit being deemed granted by operation of law.

- d. Findings Required for Approval.

- (1) Existing Towers. The Authorized Official shall approve an application for a minor modification permit for a collocation or modification to an existing wireless tower

located on a privately owned lot only if the following findings can be made:

- (a) The applicant proposes a collocation or modification to a structure constructed and maintained with all necessary permits in good standing for the sole and primary purpose of supporting any FCC licensed or authorized facilities;
  - (b) The proposed collocation or modification does not increase the height of the facility above its lowest height on the effective date of this Ordinance or as approved if constructed after the effective date of this Ordinance by more than ten percent (10%) or by the height or one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;
  - (c) The proposed collocation or modification does not increase the width of the facility by more than twenty (20) feet or the width of the tower at the level of the appurtenance, whichever is greater;
  - (d) The proposed collocation or modification does not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4);
  - (e) The proposed collocation or modification does not involve any excavation outside the leased or licensed area of the facility, including any access or utility easements;
  - (f) The proposed collocation or modification does not defeat any existing concealment elements of the facility; and
  - (g) The proposed collocation or modification does not violate any prior conditions of approval, except as may be preempted by Section 6409, 47 U.S.C. 1455(a).
- (2) Existing Base Stations. The Authorized Official shall approve an application for a minor modification permit for a collocation or modification to an existing base

station on private property only if each of the following findings can be made:

- (a) The applicant proposes a collocation or modification to a base station constructed and maintained with all necessary permits in good standing, regardless of whether it was built for the sole or primary purpose of supporting any FCC licensed or authorized facilities, that currently supports existing facilities;
  - (b) The proposed collocation or modification does not increase the height of the existing facility above its lowest height on the effective date of this Ordinance or as approved if constructed after the effective date of this Ordinance by more than ten percent (10%) or ten (10) feet, whichever is greater;
  - (c) The proposed collocation or modification does not increase the width of the facility by more than six (6) feet;
  - (d) The proposed collocation or modification does not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4);
  - (e) The proposed collocation or modification does not involve any excavation outside the leased or licensed area of the facility, including any access and utility easements;
  - (f) The proposed collocation or modification does not defeat any existing concealment elements of the existing facility; and
  - (g) The proposed collocation or modification does not violate any prior conditions of approval, except as may be preempted by Section 6409, 47 U.S.C. 1455(a).
- e. Permit Denial. An application for a minor modification permit may be denied if the Authorized Official determines the proposed collocation or modification does not qualify for mandatory approval under 47 U.S.C. 1455, as amended, and as may be interpreted by any order of the FCC or any court of competent jurisdiction.

E. Non-Mandatory Collocation or Modification Requests.

1. Permit Required. All collocations or modifications to an existing facility that do not meet the findings of approval required for a minor modification permit in conformance with Chapter 17.68.12(D)(2)(d) shall require the approval of a conditional use permit, which meets the requirements of Chapter 17.68.12(E)(3) below.
2. Permit Application. In addition to the requirements of Chapter 17.96 for all conditional use permit applications, the following information is required:
  - a. Documented evidence that the applicant holds all current licenses and registrations from the FCC and any other applicable regulatory body where such license(s) and/or registration(s) are necessary to provide wireless telecommunications services utilizing the proposed facility;
  - b. An inventory of the applicant's existing facilities that are either within the City or within one-quarter (1/4) mile of the City's border, including a map showing the location of the specific site that is the subject of the application. The inventory shall provide specific information about the location, height, power rating, frequency range, and design of each facility.
  - c. Photographs and photo simulations showing the proposed facility superimposed on the site and surroundings from reasonable line-of-sight locations from public streets or other adjacent viewpoints, together with a map that identifies the photo location of each view angle.
3. General Requirements. Collocations and modifications to facilities not protected by 47 U.S.C. § 1455 shall be designed and maintained as follows:
  - a. The applicant proposes a collocation or modification to a wireless tower or base station constructed and maintained with all necessary permits in good standing for the sole and primary purpose of supporting any Federal Communications Commission licensed or authorized antennas and their associated facilities;
  - b. Wireless facilities on an existing base station shall not exceed or project more than fifteen (15) feet beyond the existing building or structure.

- c. Facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.
  - d. The facilities shall not bear any signs or advertising devices other than certification, warning, or other signage required by law or expressly permitted by the City.
  - e. To the extent feasible and aesthetically desirable, all facilities should be collocated or modified in a manner that accommodates future collocations and equipment installations that can be integrated into the wireless facility or its associated structures with no or negligible visual changes to its outward appearance.
  - f. All cables and connectors for telephone, primary electric, and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. Meters, panels, disconnect switches, and other associated improvements must be placed in inconspicuous locations where possible. The Authorized Official shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the cost of the project.
  - g. Facilities shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning & Zoning Commission shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding lots.
4. Application Review. Each conditional use permit application for a non-mandatory collocation or modification request shall be submitted to the Authorized Official. Under federal law, the Authorized Official, within thirty (30) days of the receipt of the application, shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Authorized Official informs the applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the applicant provides the requested information.

If the application is deemed incomplete, an applicant may submit additional materials to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application.



After meeting with the applicant, the Authorized Official shall review the substantive contents of the application and make a recommendation to the Board of Adjustment to either approve or deny the application. The Authorized Official's recommendation shall include a summary of the application, and the reasons and justifications for either approval or denial of the application.

The Authorized Official shall set the date, time, and place for a public hearing to be held by the Board of Adjustment. No less than ten (10) days prior to the scheduled public hearing, the Authorized Official shall notify the landowner and applicant by mail, post notices at City Hall and on the lot effected by the proposed conditional use permit, and publish notice of the public hearing in the legal newspaper of the City.

The public hearing shall be held. Any applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment.

The Board of Adjustment with an affirmative vote of the majority of its members, may grant the conditional use permit with such conditions and safeguards as are appropriate to protect the health, safety, and welfare of the community. The decision of the Board of Adjustment shall be filed unless an appeal is filed in conformance with Chapter 17.96.09.

The Board of Adjustment shall either issue the conditional use permit or issue a written statement of denial within ninety (90) days of the submission of the initial application unless:

- a. The Authorized Official notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the ninety (90) day total review time is tolled until the applicant provides the missing information; or
- b. An extension of time is agreed to by the applicant and City.

Failure to approve the conditional use permit or issue a written denial within ninety (90) days shall constitute an approval of the application, but, instead, shall create only a rebuttable presumption that the failure to timely act was not reasonable under 47 U.S.C. 332(c)(7)(B)(ii).

5. Findings Required for Approval. The Planning & Zoning Commission shall not grant the conditional use permit unless it finds as follows:
  - a. All applicable requirements of Chapters 17.96 and 17.68.12(E)(3) are met; or

- b. The applicant has demonstrated by clear and convincing evidence that the facility is necessary to close a significant gap in the service provider's coverage. Such evidence shall include in-kind call testing of existing facilities within the area the applicant contends is a significant gap in coverage to be remedied by the facility; and
  - c. The applicant has demonstrated by clear and convincing evidence that no feasible alternative exists that would close the significant gap in the service provider's coverage that would be a more appropriate location or design for the facility under the standards prescribed above.
- F. Operation and Maintenance Standards. All facilities shall comply with the following operation and maintenance standards:
  - 1. Facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment no later than forty-eight (48) hours from the time of notification by the City.
  - 2. Except for emergency repairs, all testing and maintenance activities that will be audible beyond the lot line shall only occur between the hours of 7:00 a.m. and 7:00 p.m., excluding holidays.
  - 3. Backup generators shall be operated only during periods of power outages or for testing. Any testing of the backup generators should occur during daylight hours.
- G. Permit Fees. A permit fee shall be paid to the City for each permit required by this Chapter in an amount set by resolution of the City Council. All applicable fees must be paid prior to the issuance of a permit.
- H. Financial Assurance. Prior to obtaining a building permit to erect or install the proposed wireless facility, the applicant shall secure a bond or provide financial assurances, in a form acceptable to the Authorized Official, for the removal of the facility in the event that its use is abandoned or the approval is otherwise terminated.
- I. Removal of Abandoned Facility. Any wireless telecommunication facility that has not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon making the determination that the facility has been abandoned, the Authorized Official shall notify its owner that it shall be removed within ninety (90) of receipt of the notice. Failure to remove an

abandoned facility within said ninety (90) days shall result in the City removing it at its owner's expense. If there are two (2) or more users of a single facility, this provision shall not become effective until all users have abandoned the facility.

**17.68.13 Vacation Rental By Owner (VRBO).**

- A. Purpose. These regulations are designed to set regulations and standards for persons owning and/or renting Vacation Rentals By Owner (VRBO) properties within the City in order to protect the health, safety, and welfare of the public, and to minimize the impacts of such use on neighboring properties.
- B. Applicability. These requirements shall apply to all VRBOs, regardless of whether they qualify as a principal land use or an accessory land use of the lot.
- C. Permit Required. It shall be unlawful for any person to operate a VRBO on a lot within the City without first obtaining a conditional use permit in conformance with Chapter 17.96. The permit required by this Chapter is in addition to any license, permit, or fee required elsewhere in this Ordinance or required by State Law.
- D. Permit Application. In addition to the requirements of Chapter 17.96 for all conditional use permit applications, the following information is required:
  - 1. The owner(s) shall have received a South Dakota Vacation Home Lodging License from the South Dakota Department of Health. A copy of the license shall be provided to the Authorized Official.
  - 2. A copy of the owner(s) South Dakota Sales Tax License.
  - 3. The name, address, and contact information for the Local Contact, if applicable. See Chapter 17.68.13(E)(2) below.
- E. General Requirements. All VRBOs shall meet the following requirements:
  - 1. The maximum occupancy allow in a VRBO shall be no greater than two (2) persons per bedroom, plus four (4) additional persons. For purposes of this section, children age five (5) and below are not counted as occupants.
  - 2. Where the owner(s) do not reside within thirty (30) miles driving distance of the VRBO, a Local Contact shall be designated. The Local Contact shall reside within thirty (30) miles driving distance to the VRBO. The owner(s) or Local Contact, whichever is applicable, shall be responsible for responding in a reasonable time to complaints about the VRBO. This information shall be supplemented within a reasonable time upon changing the designated Local Contact. Failure to do so may

result in the review of the conditional use permit pursuant to Chapter 17.96.08.

3. The owner(s) shall keep records as required by SDCL 34-18-21. The report shall be provided to the Authorized Official upon request.
4. Occupancy of recreational vehicles (RVs), camper trailers, and tents shall not be allowed. Children under the age of thirteen (13) are allowed to “camp out” in a tent on the lot but count toward the maximum occupancy.
5. The minimum age allowed for the principal renter of a VRBO shall be twenty-one (21) years of age.
6. Quiet hours shall be from 10 p.m. until 7 a.m.
7. The maximum number of day quests allowed, not to include overnight quests, shall be double the maximum occupancy of the VRBO.
8. The use of open fires, fire pits, fireworks, charcoal burning grills, gas fired grills, or other devices shall comply all relevant federal, state, and/or local laws.

F. Interior Sign Requirements. Each VRBO shall have a clearly visible and legible notice posted within the dwelling on or next to the front door, containing the following information:

1. The name of the owner(s) or Local Contact, and a telephone number at which they may be reached on a 24-hour basis;
2. The property address;
3. The maximum number of occupants permitted to stay in the dwelling;
4. The maximum number of day quests permitted to visit the dwelling;
5. The number and location of all off-street parking spaces;
6. The rules/regulations for pets and applicable leash laws;
7. The rules/regulations for open fires, fire pits, fireworks, charcoal burning grills, gas fired grills, or other similar devices;
8. The quiet hours;

9. A statement that: “Guests are expected to be courteous to all neighbors and to respect property boundaries,”
10. Local emergency and law enforcement contact information; and
11. Notification that the renter and occupants are responsible for the creation of any disturbances or for violation any other provisions of this Chapter.

**17.68.13 Visibility at Intersections and Driveways.**

- A. Intersection safety zones: No freestanding sign or other sign with its face less than twelve (12) feet above grade or any fence, wall, shrub or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted, or maintained within a triangular area of a corner lot that is included by measuring straight lines along the curb lines at points forty (40) feet distant in each direction from the intersection of the curbs and a straight line connecting the first two lines. (See Figure 1)
- B. Driveway safety zones: No freestanding sign or other sign with its face less than ten (10) feet above grade or any fence, wall, shrub, or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten (10) feet behind the curb line. (See Figure 3)

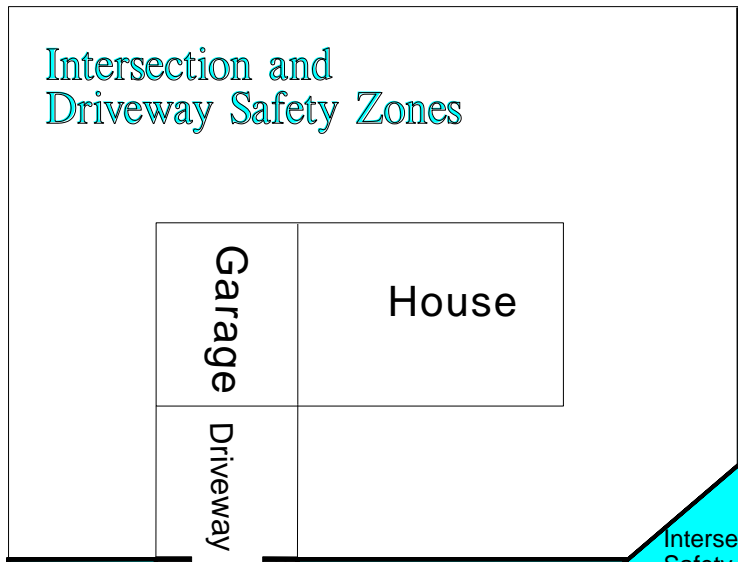


Figure 3

## CHAPTER 17.72. ADJUSTMENTS TO YARD REGULATIONS

- 17.72.01 Adjustment to Front Yard Requirements.** Where existing abutting and adjacent principal buildings have a front yard setback less than required by this Ordinance, any lot's front yard setback may be adjusted to the average of those principal buildings' front yards so long as they are located on same side of the street. For purposes of this Chapter, the term "adjacent" shall mean the property next to the lot's abutting property, if applicable.
- 17.72.02 Adjustment to Side Yard Requirements.** Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the side lot line(s) than the existing building.
- 17.72.03 Projection from Buildings.** Every part of any required yard shall be open to the sky and unobstructed except:
- A. Awnings, canopies, eaves, solar panels, and similar roof projections may extend into a front, side, or rear yard so long as they do not adversely impact the health, safety, and welfare of the public.
  - B. Air conditioners may project into a required side or rear yard setback.
  - C. An open, unenclosed, and uncovered deck or paved patio may project into a required front yard for a distance not exceeding ten (10) feet. It may project into a required side or rear yard so long as it is at least five (5) feet from the abutting lot line.

# CHAPTER 17.76. NON-CONFORMING USES AND NON-STANDARD LOTS

**17.76.01 Non-Conforming Buildings, Structures, and Uses.** A lawful use or structure existing at the time this Ordinance is adopted or amended may continue even though such use does not conform with the district regulations subject to the following provisions:

- A. Whenever a non-conforming principal land use been changed to a more restricted or conforming principal land use, it shall not be changed back to a less restricted use.
- B. Should any non-conforming building, structure, or use be destroyed by any means to the extent of more than fifty (50) percent of its replacement cost, such non-conforming use shall not continue.
- C. When a non-conforming use is discontinued for a period of one (1) year or a non-conforming building or structure is not occupied or otherwise actively used for its authorized land use for a period of one (1) year, the City Council may adopt, after notice by mail or hand delivery to the property owners, an amortization schedule to bring about the elimination of such non-conforming building, structure, or land use.
- D. Any non-conforming land use may be extended throughout any part of a building or structure which was arranged or designed for such use prior to the adoption of this Ordinance but shall not be extended outside such building or structure.
- E. No existing non-conforming building or structure shall be enlarged, moved, or structurally altered except to accommodate the transition to an authorized Permitted or Conditional Use.

**17.76.02 Alterations to Non-Conforming Buildings, Structures, and Land Uses.** Non-conforming buildings, structures, and land uses existing immediately prior to the effective date of this Ordinance may be continued, although such uses do not conform to the requirements of this Ordinance. Additionally, non-conforming buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

- A. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.
- B. Structural alteration of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located.

- C. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

**17.76.03 Merger of Non-Standard Lots.** If two (2) or more contiguous lots are held in single or joint ownership prior to the issuance of a building permit for any of the lots in conformance with Chapter 17.84, the lots shall be replatted into one (1) lot to the extent necessary to meet the District's minimum lot and yard requirements if: (1) all share the same zoning district classification; (2) any of the lots do not individually meet the minimum lot and yard requirements of the zoning district in which they are located; and (3) any of the lots are undeveloped or contain no principal structure.

**17.76.04 Merger of Simultaneously Improved Lots.** When improvements are proposed involving two (2) or more contiguous lots held either in single or joint ownership, said lots shall be replatted into one (1) lot prior to the issuance of a building permit in conformance with Chapter 17.84.



## CHAPTER 17.80. ADMINISTRATION AND ENFORCEMENT

**17.80.01 Powers and Duties.** The Authorized Official is hereby authorized and directed to interpret and enforce all the provisions of this Ordinance and establish rules for its administration. Such interpretations shall at all times be consistent with its intent and purpose, and be set forth in writing. Additionally, the Authorized Official may solicit technical advice and appoint inspectors, municipal officials, and other municipal employees to assist with the administration of this Ordinance. With approval of the City Council, the Mayor shall appoint the Authorized Official.

**17.80.02 Right of Entry.** Whenever deemed necessary to enforce any of the provisions of this Ordinance, the Authorized Official and/or his or her authorized representative may enter such building and onto such lot at all reasonable times to perform an inspection. If such building or lot is occupied, the Authorized Official or his or her authorized representative shall first present proper credentials and request entry. If such building or lot is unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge, care, or control of it request entry. If such entry is refused, the Authorized Official or his or her authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Authorized Official or his or her authorized representative shall have first obtained a proper inspection warrant from a court of competent jurisdiction or other remedy provided by law to secure entry of the building or lot, no owner or occupant or any other person having charge, care, or control of any building or lot shall fail or neglect to promptly permit entry.

**17.80.03 Stop Order/Occupancy Violation.** Whenever any work or other action is occurring in a manner contrary to the provisions of this Ordinance, the Authorized Official may order the work or other action stopped by notice in writing served on any person engaged in the doing or causing such work or other action to be done, and any such persons shall forthwith stop such work or other action until authorized by the Authorized Official to proceed accordingly.

# CHAPTER 17.84. BUILDING AND CHANGE OF USE PERMITS

## 17.84.01 Building Permits.

- A. Permit Required. No new construction, relocation, renovation, replacement, demolition, or other action that may be regulated by the provisions of this Ordinance, the City Code, and/or the City's adopted building codes shall occur without first obtaining a building permit from the City. If there is a conflict between the provisions of this Ordinance, the City Code, and/or the terms of the City's adopted building codes, the rules and regulations prescribed in the building codes shall control.

Exception: No building permit shall be required for the replacement of siding, shingles, painting, or windows with the same or substantially the same materials; any work that does not physically alter and/or change the dimensions of the building or structure; and the construction or replacement of decks equal to or smaller than two hundred (200) square feet.

- B. Application. To obtain a building permit, the applicant shall file an application with the Building Official on a form as provided. Every application shall contain the following information:
1. Legal description and/or address of the lot for which the building permit is requested.
  2. Name, address, and phone number of every owner of the lot for which the building permit is requested.
  3. The zoning district and principal land use classification(s) under which the lot is regulated at the time of the application.
  4. A description of the work to be covered by the building permit for which the application is made.
  5. A site plan in conformance with Chapter 17.84.03.
  6. Be signed by the applicant, who may be required to submit evidence to indicate such authority if the lot has more than one owner.
  7. Any other information concerning the lot, its current principal land use(s), or requested principal land use(s) as may be required by the Building Official.

**17.84.02 Change of Use Permits.**

- A. Permit Required. It shall be unlawful for any person, firm, or corporation to change the principal land use of any lot, building, or structure regulated by this Ordinance, or cause the same to be done, without first obtaining a change of use permit for the land use change from the Building Official.
  
- B. Application. To obtain a change of use permit, the applicant shall file an application with the Building Official on a form as provided. Every application shall contain the following information:
  - 1. Legal description and/or address of the lot for which the change of land use is requested.
  - 2. Name, address, and phone number of every owner of the lot for which the change of land use is requested.
  - 3. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
  - 4. The principal land use classification(s) requested by the application.
  - 5. A site plan in conformance with Chapter 17.84.03.
  - 6. Be signed by the applicant, who may be required to submit evidence to indicate such authority if the lot has more than one owner.
  - 7. Any other information concerning the lot, its current principal land use(s), or requested principal land use(s) as may be required by the Building Official.

**17.84.03 Information on Site Plan.** Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Building Official. Where applicable, all site plans required in Chapters 17.84.01 and 17.84.02 shall contain the following information:

- A. The legal description of the lot shown on the site plan.
- B. A north arrow.
- C. All existing and proposed buildings, structures, or additions thereto, with information regarding their dimensions, height, and number of stories.
- D. Distance from all building lines to the lot lines at the closest points.
- E. Dimensions of all lot lines.

Exception: The Building Official may waive the submission of plans, if he or she determines the nature of the work or change in principal land use(s) is such that reviewing plans is not necessary to obtain compliance with this Ordinance.

All plans shall not be changed, modified, or altered, and all work shall be performed in accordance with the approved plans.

**17.84.04 Fees.** Upon the filing of any application for a building permit or change of use permit with the Building Official, the applicant shall pay the City of North Sioux City the appropriate fee in conformance with Chapter 17.100.

**17.84.05 Permit Approval.** Once filed pursuant to Chapters 17.84.01 and 17.84.02, the Building Official shall determine whether the application contains all the required information. If it does not, he or she shall notify the applicant either in person or in writing and note any missing information. If it contains all the required information or has been supplemented to contain all the required information, he or she has the following options:

- A. Building Permit involving buildings or structures in the R-1 and R-2 Districts, Single-Family Attached Dwellings Containing Less Than 4 Connected Dwelling Units, and Construction or Relocation of Manufactured Homes: The Building Official may either (1) make a decision; or (2) forward the application to the Planning & Zoning Commission for review. If the application is forwarded to the Planning & Zoning Commission, a permit shall be approved only if a majority of its members determine that it meets the requirements of this Ordinance and all other relevant laws and regulations.
- B. Building Permit involving things other than those regulated by Chapter 17.84.05(A): The Building Official shall forward the application to the Planning & Zoning Commission for review. The Planning & Zoning Commission shall approve the permit only if a majority of its members determine that it meets the requirements of this Ordinance and all other relevant laws and regulations.
- C. Change of Use Permit: The Building Official shall approve and issue the permit if the proposed change of use meets the requirements of this Ordinance and all other relevant laws and regulations.

If an application determined to be incomplete by the Building Official is not fully supplemented with the requested information after six (6) months from the date the applicant was notified of such deficiencies, it shall be deemed expired. Upon expiration, any fees submitted along with the application shall be deemed forfeited to the City and non-refundable.

**17.84.06 Validity of Permit.** The issuance or granting of a permit or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions

of this Ordinance or of any other relevant law or regulation. A permit presuming to give authority to act contrary to law shall be invalid.

**17.84.07 Expiration.** Every permit issued under the provisions of this Ordinance shall expire by limitation and become null and void if the building, work, or use authorized by such permit is not commenced within ninety (90) days from the date of issuance thereof. Written notice of the permit's expiration shall be provided to the permittee either by mail or hand delivery, together with a statement that further work or the use described in the permit shall not proceed unless and until a new permit has been obtained. Upon good cause shown, the permit may be extended by the Building Inspector for additional periods, not to exceed thirty (30) days in length at any one time. Any extension of a building or change of use permit shall be in writing and signed by the Building Inspector.

**17.84.08 Suspension or Revocation.** The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Chapter whenever either: (1) the permit is issued in error; (2) on the basis of incorrect information supplied by the applicant; or (3) the construction or land use authorized by the permit is being undertaken in violation of this Ordinance.

**17.84.09 Certificate of Occupancy.** No building, structure, or lot shall be used or occupied, and no change in the existing use of a building, structure, or lot shall be made until a final inspection has been completed. A certificate of occupancy shall only be issued if it is determined that such complete work or change of use complies with the provisions of this Ordinance, all applicable building codes adopted by the City, and all other relevant federal, state, or local laws. (See Title 15 of the City Code).

## CHAPTER 17.88. BOARD OF ADJUSTMENT

**17.88.01 Establishment.** A Board of Adjustment is hereby established for the City of North Sioux City, which shall consist of the members of the Planning & Zoning Commission, pursuant to SDCL 11-4-13.

**17.88.02 Powers and Duties.** The Board of Adjustment shall have the following powers and duties:

- A. To hear and decide appeals where it is alleged that the Authorized Official or Building Official has made an error in any requirement or determination made in the enforcement of this Ordinance.
- B. To hear and decide upon petitions for variances to alter the strict application of the height, area, setback, yard, parking, or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.
- C. To hear and decide upon conditional use permits in conformance with Chapter 17.96.

**17.88.03 Fees.** Upon the filing of any application for an appeal or variance with the Authorized Official, the applicant shall pay the City of North Sioux City the appropriate fee in conformance with Chapter 17.100.

**17.88.04 Appeal Procedure.**

- A. Any person or persons, jointly or severally, aggrieved by any decision of the Authorized Official or Building Official may present a notice of appeal setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be in writing and filed with the Authorized Official, who shall transmit all information and records concerning the appeal to the Board of Adjustment. Such notice of appeal shall be presented to the Authorized Official within thirty (30) days of the appealed decision or determination.
- B. The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the Chairman or Authorized Official and at such other times as necessary. Each session at which an appeal is to be heard shall be a public hearing pursuant to SDCL 11-4-21. At least ten (10) days prior to the date of the scheduled public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at City Hall and on the City's website; and shall publish notice of the public hearing in the City's legal newspaper(s).

The applicant shall give notice by certified mail to at least one (1) owner of each adjacent property. The notice shall include, at a minimum, the name and contact information or a person responsible for addressing questions related to the matter; the address of the lot that is the subject of the matter; the nature and basis of the applicant's appeal; the date, time, and place of the public hearing; and a statement that all materials submitted by the applicant are available for public review prior to the public hearing at City Hall. Notices shall be postmarked not less than ten (10) days prior to the date of the public hearing. The applicant is responsible for meeting all requirements and shall provide documentation to the Authorized Official that this public notice requirement has been satisfied at least four (4) business days prior to the date of the public hearing. Failure to provide all required notices or proper documentation of such shall result in the cancellation of the public hearing. Failure of the recipient of the certified letter to accept delivery does not invalidate service.

For residentially zoned properties, the term "adjacent" shall mean all properties located within two hundred fifty (250) feet. For commercially and industrially zoned properties, the term "adjacent" shall mean all properties located within one thousand (1,000) feet.

- C. The public hearing shall be held. The person or persons appealing the decision may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Authorized Official or Building Official.

**17.88.05 Variances.** The Board of Adjustment shall have the jurisdiction to hear and decide upon petitions for variances to alter the strict application of the height, lot area, lot width, setback, parking, or other applicable requirements of this Ordinance as will not be contrary to the public interest. For purposes of this Ordinance, public interest shall include the interests of the public at large within the City, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance. The following issues are to be considered, each and all of them, as determining factors in whether or not the issuance of a variance is justified:

- A. An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.

- B. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
- C. The variance requested is the minimum variance that will alleviate the hardship.
- D. Granting of the variance will comply with the general purpose and intent of this ordinance, and will not be offensive to adjacent areas or to the public welfare.
- E. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.
- F. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.

Before any variance shall be granted, the Board of Adjustment shall make written findings certifying that the variance meets all the specific requirements outlined above. The Board's written findings shall not simply state the Board's conclusions regarding each applicable requirement, but shall include a brief statement of their rationale concerning the basis for finding each has been satisfied.

In order to preserve the intent of this Ordinance as well as protect the public interest, the Board of Adjustment may attach conditions to a variance. A variance shall remain valid only as long as the property owner complies with any terms and conditions of the variance.

An application for a variance, available from the Authorized Official, shall be completed by the landowner requesting the variance. Completed applications shall be returned to the Authorized Official for review. To be considered completed, the application shall contain the following:

- A. Legal description or address of the lot for which such variance is requested;
- B. Name and address of each owner of the lot;
- C. Name, address, phone number, and signature of the applicant if made by anyone other than the lot's owner;
- D. Zoning district classification under which the lot is regulated at the time of such application;
- E. Description of the variance sought; and



F. Be accompanied with a site plan, unless waived by the Authorized Official.

The Authorized Official shall review the application and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation shall include a summary of the application and the reasons and justifications for either approval or disapproval of the application.

The Authorized Official shall set the date, time, and place for a public hearing to be held by the Board of Adjustment. At least ten (10) days prior to the date of the scheduled public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at City Hall, on the lot subject to the proposed variance in conformance with SDCL 11-4-4.4, and on the City's website; and shall publish notice of the public hearing in the City's legal newspaper(s).

The applicant shall give notice by certified mail to at least one (1) owner of each adjacent property. The notice shall include, at a minimum, the name and contact information for a person responsible for addressing questions related to the proposal; the address of the lot subject to the proposal; the current zoning district classification of the lot; the nature and extent of the variance requested by the applicant; the date, time, and place of the public hearing; and a statement that all materials submitted by the applicant are available for public review prior to the public hearing at City Hall. Notices shall be postmarked not less than ten (10) days prior to the date of the public hearing. The applicant is responsible for meeting all requirements and shall provide documentation to the Authorized Official that this public notice requirement has been satisfied at least four (4) business days prior to the date of the public hearing. Failure to provide all required notices or proper documentation of such shall result in the cancellation of the public hearing. Failure of the recipient of the certified letter to accept delivery does not invalidate service.

The public hearing shall be held. The applicant may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any variance.

Any variance granted by the Board of Adjustment shall expire if either of the following occurs: (1) the action(s) or circumstance(s) authorized by the variance is not completed within one (1) year from the date the variance is approved; or (2) the permittee is not in compliance with any of the conditions of the variance. If the action(s) or circumstance(s) authorized by the variance is not completed within one (1) year from the date the approved variance is filed with the Authorized Official, the Board may, extend the time period for good cause. The holder of the variance shall be solely responsible for convincing the Board that good cause warranting the extension of the variance exists.

If the Authorized Official is reasonably satisfied there exists any non-compliance with the terms of the action(s), circumstances(s), or condition(s) of a variance, he or she shall give written notice of such non-compliance to the person, firm, corporation, or entity to which it was granted. He or she shall advise the Board of Adjustment of such non-compliance at its next regularly scheduled meeting. Upon such advisement, the Board of Adjustment shall schedule a time for review of the variance at a subsequent regularly scheduled meeting. Such review will be open to the public and notice provided in the manner required by law.

In the event the Board of Adjustment determines by a vote of two-thirds (2/3) of its members that the variance holder is not in compliance with the terms of the action(s), circumstance(s), or condition(s), it may do any of the following:

- A. Revoke the variance.
- B. Amend the terms and conditions of the variance.
- C. Postpone action for a period of time it deems appropriate to allow the variance holder to comply with all terms, conditions, and requirements in question.
- D. Require any other such action it deems appropriate and in accordance with the provisions of this Ordinance.

Any person, firm, corporation, or entity to which a variance has been granted and subsequently revoked by the Board of Adjustment may not apply for a similar or substantially similar variance for a period of six (6) months.

**17.88.06 Court Review.** Any person aggrieved by any decision of the Board of Adjustment may petition a court of record within thirty (30) days after the filing of the Board's decision as provided by SDCL 11-4-25.

## **CHAPTER 17.92. AMENDMENTS AND CHANGE OF ZONE**

**17.92.01 Purpose.** Any person, firm, or corporation desiring a change in this Ordinance shall file an application for such change with the Authorized Official. Additionally, the City Council may from time to time on its own motion, after public notice and hearing, and after a recommendation from the Planning Commission, amend, supplement, or change this Ordinance according to the provisions contained herein.

**17.92.02 Application.** In petitioning the City for an amendment or change of zone, any person, firm, or corporation shall file an application with the Authorized Official on a form as provided. Every application for a change of zone shall contain the following information:

- A. Legal description or address of the lot for which the change of zone is requested.
- B. Name, address, and phone number of the owner of the lot which is the subject of such application.
- C. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
- D. The zoning district classification requested by the application.
- E. A site plan in conformance with Chapter 17.92.03.
- F. Any other information concerning the lot as may be requested by the Authorized Official.

**17.92.03 Information on Site Plan.** Plans of sufficient clarity to indicate the location and use classification of any existing buildings shall be provided to the Authorized Official. Where applicable, all site plans required in Chapter 17.92.02(E) shall contain the following information:

- A. The address of the lot or its legal description.
- B. A north arrow.
- C. All existing and proposed buildings or additions.
- D. Dimensions of all buildings.
- E. Distance from all building lines to the lot lines at the closest points.

- F. The location and dimensions of all buildings and structures located on properties abutting the lot that is the subject of the application.
- G. Building height and number of stories.
- H. Dimensions of all lot lines.

Exception: The Authorized Official may waive the submission of plans, if he or she determines the nature of the request is such that reviewing of plans is not necessary to assist the Planning Commission and/or City Council in determining whether to grant the change of zone request.

**17.92.04 Fees.** Upon the filing of any application for an amendment or change of zone with the Authorized Official, the applicant shall pay the City of North Sioux City the appropriate fee in conformance with Chapter 17.100.

**17.92.05 Procedure.** The following procedures for requesting an amendment or change of zone shall be followed:

- A. The Authorized Official shall review the application for an amendment or change of zone and forward the application and his or her comments to the Planning Commission for review.
- B. The Authorized Official shall set the date, time, and place for a Planning Commission public hearing. The Authorized Official shall publish notice of the public hearing in the City's legal newspaper(s) and on the City's website once no less than ten (10) days prior to the public hearing. At least one (1) sign in conformance with SDCL 11-4-4.4 shall be posted on the lot for a continuous period of ten (10) days immediately prior to any public hearing held by the Planning Commission to consider any amendment or change of zone application.

For changes of zone, the applicant shall give notice by certified mail to at least one (1) owner of each adjacent property. The notice shall include, at a minimum, the name and contact information for a person responsible for addressing questions related to the proposal; the address of the lot subject to the proposal; the current zoning district classification of the lot; the proposed zoning district classification of the lot; the date, time, and place of the public hearing; and a statement that all materials submitted by the applicant are available for public review prior to the public hearing at City Hall. Notices shall be postmarked not less than ten (10) days prior to the date of the public hearing. The applicant is responsible for meeting all requirements and shall provide documentation to the Authorized Official that this public notice requirement has been satisfied at least four (4) business days prior to the date of the public hearing. Failure to provide all required notices or proper documentation of such

shall result in the cancellation of the public hearing. Failure of the recipient of the certified letter to accept delivery does not invalidate service.

For residentially zoned properties, the term “adjacent” shall mean all properties located within two hundred fifty (250) feet. For commercially and industrially zoned properties, the term “adjacent” shall mean all properties located within one thousand (1,000) feet.

- C. The public hearing shall be held. Any person or persons may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- D. The Planning Commission shall either recommend or not recommend approval of the amendment or change of zone to the City Council.
- E. The Authorized Official shall set the date, time and place for a City Council public hearing. The Authorized Official shall publish notice of the public hearing in the City’s legal newspaper(s) and on the City’s website once no less than ten (10) days prior to the public hearing. At least one (1) sign in conformance with SDCL 11-4-4.4 shall be posted on the lot for a continuous period of ten (10) days immediately prior to any public hearing held by the City Council to consider any change of zone application.

For changes of zone, the applicant shall give notice by certified mail to at least one (1) owner of each adjacent property. The notice shall include, at a minimum, the name and contact information for a person responsible for addressing questions related to the proposal; the address of the lot subject to the proposal; the current zoning district classification of the lot; the proposed zoning district classification of the lot; the date, time, and place of the public hearing; and a statement that all materials submitted by the applicant are available for public review prior to the public hearing at City Hall. Notices shall be postmarked not less than ten (10) days prior to the date of the public hearing. The applicant is responsible for meeting all requirements and shall provide documentation to the Authorized Official that this public notice requirement has been satisfied at least four (4) business days prior to the date of the public hearing. Failure to provide all required notices or proper documentation of such shall result in the cancellation of the public hearing. Failure of the recipient of the certified letter to accept delivery does not invalidate service.

For residentially zoned properties, the term “adjacent” shall mean all properties located within two hundred fifty (250) feet. For commercially and industrially zoned properties, the term “adjacent” shall mean all properties located within one thousand (1,000) feet.

- F. The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to this Ordinance in accordance with standard procedures for reading, approval, publication, and effective date as established by South Dakota law.
  
- G. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect twenty (20) days after the date of publication in the City's legal newspaper(s) unless the referendum shall have been invoked.

# CHAPTER 17.96. CONDITIONAL USE PERMITS

**17.96.01 General.** The Board of Adjustment may authorize, by conditional use permit, both those principal uses specifically designated as Conditional Uses in Chapters 17.12 through 17.52 and any other building, structure, or land use requiring such a permit pursuant to the terms of this Ordinance. The Board of Adjustment shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare of the community.

**17.96.02 Application.** To obtain a Conditional Use Permit, the applicant shall file an application in writing on a form furnished by the Authorized Official. Every application shall contain the following information:

- A. Legal description or address of the lot on which such conditional use is requested.
- B. Name, address, and phone number of the owner of the lot which is the subject of such application.
- C. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
- D. The principal land use classification(s) requested by the application.
- E. A site plan in conformance with Chapter 17.96.04.
- F. Any other information concerning the lot as may be requested by the Authorized Official.

**17.96.03 Fees.** Upon the filing of any application for a conditional use permit with the Authorized Official, the applicant shall pay to the City the appropriate fee in conformance with Chapter 17.100.

**17.96.04 Information on Site Plan.** Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapter 17.96.02(E) shall contain the following information:

- A. The legal description and/or address of the lot.
- B. The name of the project and/or business.
- C. A north arrow.

- D. All existing and proposed buildings or additions.
- E. Dimensions of all buildings.
- F. Distance from all building lines to the lot lines at the closest points.
- G. Building height and number of stories.
- H. Dimensions of all lot lines.
- I. Parking lots or spaces: designate each space and give dimensions of the parking lot(s), stall(s), and aisle(s).
- J. The location and dimensions of all buildings and structures located on properties abutting the lot that is the subject of the application.
- K. Screening: show height, location, and type of material to be used.
- L. Landscaped setback and trees: indicate species of trees and material(s) to be used for landscaping.

Exception: The Authorized Official may waive the submission of plans, if he or she determines the nature of the work applied for is such that reviewing of plans is not necessary to assist the Board of Adjustment in determining whether to grant the conditional use permit.

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

**17.96.05 Review and Public Hearing Procedure.** Prior to the approval of a conditional use permit, the Authorized Official shall review the application. After review of the application, the Authorized Official shall make a recommendation to the Planning Commission that they either recommend approval or denial of the permit to the Board of Adjustment. The Authorized Official's recommendation shall include a summary of the application and the reasons and justifications for either approval or disapproval of the application.

Once the completed application and Authorized Official's recommendation have been transmitted to the Planning Commission, the matter shall be scheduled to be heard at their next regularly schedule. After review of the application, the Planning Commission shall make a recommendation to the Board of Adjustment that they either approve or deny the application. The Planning Commission's recommendation shall include a summary of the application, the Authorized Official's recommendation and justifications, and the Planning Commission reasons and justifications for either approval or denial of the application.



Once transmitted to the Board of Adjustment, the Authorized Official shall set the date, time, and place for a formal public hearing to be held by the Board of Adjustment. At least ten (10) days prior to the date of the scheduled public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at City Hall, on the lot subject to the proposed conditional use permit in conformance with SDCL 11-4-4.4, and on the City's website; and shall publish notice of the public hearing in the City's legal newspaper(s).

The applicant shall give notice by certified mail to at least one (1) owner of each adjacent property. The notice shall include, at a minimum, the name and contact information for a person responsible for addressing questions related to the proposal; the address of the lot subject to the proposal; the current zoning district classification of the lot; the type of conditional use requested by the applicant; the date, time, and place of the public hearing; and a statement that all materials submitted by the applicant are available for public review prior to the public hearing at City Hall. Notices shall be postmarked not less than ten (10) days prior to the date of the public hearing. The applicant is responsible for meeting all requirements and shall provide documentation to the Authorized Official that this public notice requirement has been satisfied at least four (4) business days prior to the date of the public hearing. Failure to provide all required notices or proper documentation of such shall result in the cancellation of the public hearing. Failure of the recipient of the certified letter to accept delivery does not invalidate service.

For residentially zoned properties, the term "adjacent" shall mean all properties located within two hundred fifty (250) feet. For commercially and industrially zoned properties, the term "adjacent" shall mean all properties located within one thousand (1,000) feet.

The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Authorized Official:

- A. The public hearing shall be held. Any person or persons may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment.
- B. Before any conditional use permit shall be granted, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  1. Ingress and egress to the lot and any proposed buildings or structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  2. Off-street parking and loading areas where required;

3. Refuse and service areas, with particular reference to (a) and (b) above;
4. Utilities, with reference to locations, availability and compatibility;
5. Screening and buffering with reference to type, dimensions and character;
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;
7. Required yards and other open space;
8. General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;
9. The goals and objectives of the most recently adopted Comprehensive Plan.

The written findings shall not simply state the Board's conclusions regarding each applicable requirement, but shall include a brief statement of their rationale concerning the basis for finding each has been satisfied.

The Board of Adjustment shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of this Ordinance. The decision of the Board of Adjustment shall be final unless an appeal is filed in accordance with SDCL 11-4-25.1.

**17.96.06 Reapplication.** No applicant requesting a conditional use permit whose application involves the same or substantially the same request, project, or proposal for the same or substantially the same building or lot as that which has been denied by the Zoning Board of Adjustment shall be again considered by the Board of Adjustment until a period of at least twelve (12) months has passed from the date of the final action on the application.

**17.96.07 Expiration.** A conditional use permit shall expire one (1) year from the date upon which it becomes effective if the use or uses have not commenced operations. Upon written request to the Authorized Official and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use permit may be granted by the Authorized Official, subject to the following conditions:

- A. There was no public objection presented during the public hearing process for the original conditional use permit.

- B. The land uses for the surrounding lots have not significantly been altered since the original approval date for the conditional use permit.

A conditional use permit shall also expire one (1) year after the use discontinues on the lot, or the use is changed to another authorized use in the underlying district.

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

- A. Basis for Review. Noncompliance with any of the terms, conditions, or requirements placed on a conditional use permit is sufficient cause to subject the permit to be reviewed by the Board of Adjustment.
- B. Procedure. If the Authorized Official is reasonably satisfied there exists any noncompliance with the terms, conditions, or requirements of a conditional use permit, he or she shall give written notice of such noncompliance to the person, firm, corporation, or entity to which the permit was granted. Additionally, the Authorized Official shall advise the Board of Adjustment of such noncompliance at its next regularly scheduled meeting. Upon such advisement, the Board of Adjustment shall set a time for review of the permit at a public hearing. Notice of the public hearing shall be provided in the manner required by law.
- C. Hearing. In the event the Board of Adjustment determines by a vote of two-thirds (2/3) of its members that such compliance has not been established, it may do any of the following:
  - 1. Revoke the permit.
  - 2. Amend the permit.
  - 3. Postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions, and requirements of the permit in question.
  - 4. Require any other such action it deems appropriate and in accordance with the provisions of this Chapter.
- D. Effect of Revocation. Any person, firm, corporation, or entity to which a conditional use permit has been granted and subsequently revoked by the Board of Adjustment may not apply for a similar or substantially similar conditional use permit for a period of six (6) months.

**17.96.09 Court Review.** Any person aggrieved by any decision of the Board of Adjustment may petition a court of record within thirty (30) days after the filing of the Board's decision as provided by SDCL 11-4-25.1.

## **CHAPTER 17.100. FEES**

**17.100.01 General Regulations.** Unless otherwise stated herein, any fees set forth in this Ordinance shall be paid at the time of filing an application with the Authorized Official. Such fee shall be payable to the City of North Sioux City and under no conditions shall any fee be refunded after publication of any required legal notice or, if notice is not required, after the meeting in which the City considers the application has convened. No action shall be taken upon any application unless all fees have been paid.

**17.100.02 Schedule of Fees, Charges, and Expenses.** A schedule of fees, charges, and expenses for permits, change of zones, appeals, and other matters pertaining to this Ordinance shall be established by resolution of the City Council. The current fee schedule shall be available from the Finance Officer. All fees shall be the property of the City and shall be paid over to the City of North Sioux City for credit to the General Fund of the City. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

## CHAPTER 17.104. DEFINITIONS

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

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

### **17.104.02 Definitions.**

**ABUTTING** – Contiguous or having a common boundary and shall include property separated by an alley. The term “abutting” implies a closer proximity than the term “adjacent”.

**ACCESSORY BUILDING** - A customary, secondary, and incidental building or portion thereof, located on the same lot occupied by its principal building, structure, or use, such as a detached garage.

**ACCESSORY STRUCTURE** – A customary, secondary, and incidental structure or portion thereof, located on the same lot occupied by its principal building, structure, or use.

**ACCESSORY USE** – A use of a lot that is customary, secondary, and incidental to and located on the same lot occupied by its principal building, structure, or use.

**ADJACENT** – Not necessarily contiguous or having a common boundary, but within close proximity.

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

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

**ADULT ORIENTED BUSINESS** - Commercial retail or service businesses including, but not limited to, adult arcades, adult bookstores or video stores, adult cabarets, adult massage parlors, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter studios, or any combination of the aforementioned as defined by SDCL 11-12-1 or as modified herein. All adult oriented businesses shall comply with SDCL 11-12.

**AGRICULTURE** - The production, keeping, or maintenance, for sale, lease or personal use, of plants and land useful to man, including, but not limited to, forages sod crops; grains and seed crops; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. This term shall not include intensive and/or industrial agricultural activities including, but not limited to, concentrated animal feeding operations, slaughterhouses, stockyards, and rendering plants.

**ALLEY** - An alley is a public right-of-way that is used primarily for vehicular service accesses to the backs or sides of properties which otherwise abuts on the streets.

**APARTMENT BUILDING** - See (Dwelling, Apartment Complex).

**ASSISTED LIVING FACILITY** - A licensed health care facility that provides 24-hour supervision of the elderly, individuals with developmental disabilities, and/or individuals with particular medical conditions or needs. Services include rooms, meals, personal care, and supervision of self-administrated medication. They may also provide recreational activities, financial services, and transportation.

**AUTHORIZED OFFICIAL** - The person, officer, or official and his or her authorized representative(s) designated by the Mayor and City Council to administer this Ordinance.

**AUTOMOBILE** - See (Motor Vehicle).

**AWNING/CANOPY** - A roof-like shelter, retractable or permanent, supported entirely from the exterior wall of a building.

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

**BUILDING** - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground in such manner as to be permanently affixed to thereto.

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

**BUILDING ENVELOPE/BUILDABLE AREA** - The area formed by the front, side, and rear building setbacks of a lot in which the principal buildings or other structures shall be located. The building envelope also includes the maximum building height allowed on the lot.

**BUILDING, HEIGHT** - The vertical distance above the lot's average existing grade measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof.

**BUILDING LINE** - The perimeter of that portion of a building or structure nearest a lot line but excluding anything specified as such within this Ordinance. See Chapter 17.72.03.

**BUILDING PERMIT** - A document signed by the Authorized Official as a condition precedent to the commencement of a use or the erection, construction, re-construction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use or building complies with the provisions of this Ordinance or an authorized variance therefrom.

**CAMPGROUND** - A plot of ground for public use upon which two (2) or more campsites are located, established, maintained, advertised, or held out to the public as a place where camping units can be located and occupied as temporary living quarters.

**CAR WASH** - Any building or portions thereof used for washing motor vehicles.

**CEMETARY** - Land used for interment of human or animal remains or cremated remains, including a burial park, a mausoleum, a columbarium, necessary sale and maintenance facilities, or a combination thereof.

**CERTIFICATE OF OCCUPANCY** - A statement setting forth that a building or structure complies with all applicable City codes and may be used for the purposes requested.

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

**CHANGE OF ZONE** - An amendment to the Official Zoning Map.

CLINIC - A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. This term does not include alcoholism and drug rehabilitation facilities.

COLLEGE/ UNIVERSITY - A community college, college, university, and comparable advanced or continuing education facilities. This definition does not apply to schools that do not offer a complete educational curriculum (e.g., beauty school, modeling school). See (School, Commercial/Vocational).

COMMENCED - Work is deemed to have commenced when the designated percentage of the value of the building permit has been expended as follows:

<u>Total Valuation</u>	<u>Required Expenditure</u>
Less Than or Equal to \$100,000	25% of value
Greater than \$100,000	10% of value

The required expenditures shall be verified by written receipts, including labor costs and/or equipment hours.

COMMUNITY GARDEN - Urban agriculture gardening that is a neighborhood-based garden for the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use. Sites shall be managed by an individual or groups of individuals that are responsible for maintenance. Said individual or group of individuals shall provide maintenance and management guidelines and/or agreements to the Authorized Official.

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

CONDITIONAL USE PERMIT - A permit issued by the Planning Commission stating that a Conditional Use complies with the conditions and standards set forth in this Ordinance.

CONDOMINIUMS - See (Dwelling, Condominiums).

CONSUMER STORAGE BUILDING – A warehouse structure containing separate storage spaces for household goods, which may be of various sizes, leased or rented on an individual basis.

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



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

**CONVENT/MONASTERY** - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in the same or an affiliated building or structure.

**COUNTRY CLUB** - A building or area typically used in association with a golf course which includes social (e.g., dining, eating, and banquet facilities) and wellness activities (e.g., tennis courts and swimming pools). Operators of county clubs may also render services customarily carried on as a business, including retailing, full-service restaurants, and on-sale and off-sale alcohol without drive-up windows.

**COVENANT OR RESTRICTIVE COVENANT** - A legal restriction on use of property or a contract between the seller and the buyer of the land affecting use of the land. These rules are generally over and above any City codes or regulations, as such they are not enforced by the City. See Chapter 17.04.05.

**CREMATORY** - A building, or portion thereof, containing a furnace for the incineration of corpses.

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

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

**DAY CARE CENTER** - A facility used only for providing adult or child day care, and is limited in number over twelve (12) by the square footage of usable space available. The ratio is thirty-five (35) square feet per person indoors and fifty (50) square feet per person outdoors. This term shall include child nurseries and preschool facilities.

**DAY CARE, FAMILY** - Care is provided as an accessory use of a dwelling. The number of persons cared for is limited to a maximum of twelve (12) adults or children. Included in that count are the providers’ own children six (6) years and under. See (Home Occupation).

**DISTRICT** - A designation shown on the Official Zoning Map as being a district enumerated in Chapters 17.12-17.52, in which a specific set of zoning standards apply.

**DRIVEWAY** - A private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the lot on which it is located.

**DWELLING** - A building, or portion, thereof, designed and used exclusively for human habitation, including single-family and multiple-family dwellings, but not including travel trailers, recreational vehicles, hotels, inns, motels, boarding and lodging houses, motor lodges, and

manufactured homes. This definition includes prefabricated homes constructed under the *International Residential Code (IRC)*.

**DWELLING, APARTMENT** - A room or a suite of rooms within an apartment complex or multiple family dwelling arranged, intended, or designed as a place of residence for a single family or group of individuals living together as a single housekeeping unit. See (Dwelling Unit).

**DWELLING, APARTMENT COMPLEX** - A building or buildings containing apartments used as a place of residence for three (3) or more dwelling units.

**DWELLING, CONDOMINIUMS** - A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities.

**DWELLING, DUPLEX** – See (Dwelling, Two Family).

**DWELLING, MULTIPLE-FAMILY** - A building, buildings, or portion thereof, designed and used for occupancy by three (3) or more families each living independently in dwelling units which may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums or offered for rent as apartments. See (Dwelling, Apartment Complex) and (Dwelling, Condominiums).

**DWELLING, SINGLE-FAMILY ATTACHED** - Two (2) or more dwelling units in a single structure or attached structures, each of which could have a single lot, which are separated from each other by a dividing wall. Such units may be side-by-side, back-to-back, or both. See (Dwelling, Townhouse) and/or (Dwelling, Two Family).

**DWELLING, SINGLE-FAMILY DETACHED** - A dwelling which is designed for and occupied by one (1) family and is surrounded by yards and is not attached to any other dwelling by any means.

**DWELLING, TOWNHOUSE** - A single-family dwelling in a row of at least two (2) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical party wall(s).

**DWELLING, TWO FAMILY** - A building designed and arranged to be occupied by two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

**DWELLING UNIT** - Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one (1) family.

**EARTHEN BERM** - A natural or made-made mound of earth that is equal to or in excess of thirty (30) inches in vertical height used to shield or buffer properties from adjoining uses, streets, highways, or to control the direction of surface water flows.

**EASEMENT** - A right granted to another person or persons for the use of land for a limited purpose.

**EAVE** - The edge of the roof that overhangs the exterior walls, sometimes with exposed rafters.

**EXISTING ANTENNA SUPPORT STRUCTURE** - Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

**EXTRACTION** - The business enterprise of excavation and removal of stone, sand, gravel, soil, or similar earthen materials from a site, whether the intent is to increase the utility and values of the site or to use the materials for landfilling on another site.

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

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

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

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

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

**FUNERAL HOME/MORTUARY** - An establishment in which the dead are prepared for burial or cremation and in which wakes and funerals may be held.

**GARAGE, PRIVATE** – An attached or detached building or portion thereof used for the storage of personal property including motor vehicles owned or leased by the occupants of the lot's principal building(s). For a detached garage, see (Accessory Building).

**GASOLINE DISPENSING STATION** - Any building, or portion thereof, which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories or testing may be done. Gasoline pumps and islands shall be located more than twelve (12) feet from the nearest lot line.

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

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

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

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

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

**GROUP HOME** – A temporary residential living arrangement for persons living in an institutional setting and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from support staff who are present when residents are present.

**HARDSHIP** - A hardship exists if the property owner was forced to comply with the provisions of an ordinance, and he or she would be unable to make “reasonable” use of the property. The hardship must result from the unique physical characteristics of the property, rather than the personal circumstances of the owner or user. In order to qualify as a hardship, the property shall be deemed unusable without granting a variance.

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

**HOME OCCUPATION** - A business, profession, occupation, or trade conducted for gain or support entirely within a residential building, or a structure accessory thereto, which is customary, secondary, and incidental to the use of such building for dwelling purposes and which does not change the essential residential character of such building. See (Accessory Use).

**HOSPITAL** - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities. This term does not include alcoholism and drug rehabilitation facilities.

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

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

**IMPERVIOUS SURFACE** - An area or material that does not allow significant amounts of water to infiltrate into the ground. Examples of impervious surfaces are blacktop and concrete.

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

**KENNEL** - Any building, lot, or portion thereof, on which five (5) or more domesticated animals more than six (6) months of age are housed, bred, boarded, trained, or sold.

**LANDFILL** - An area of land or an excavation in which wastes are placed for permanent disposal. This term does not include clean debris, e.g., dirt, trees, rocks, etc.

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

**LIGHT MANUFACTURING** - Manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat, or glare. They are generally characterized as having all aspects of the process carried on within the building itself.

**LIMITED PRODUCTION PROCESSING** - Light manufacturing, fabrication, assembly, processing, packaging, research, development, or similar uses which are conducted indoors and which would not be disruptive of, or incompatible with, other office, retail, or service uses that may be in the same building or on adjacent property. Limited production/processing generally does not include industrial processing from raw materials.

**LOADING SPACE** - An unobstructed, dust-free, hard-surfaced area no part of which is located in any street right-of-way and the principal use of which is for the standing, loading, or unloading of trucks and trailers.

**LOT** - A parcel or tract of land with boundaries established by a legal instrument such as a recorded deed, court order, or a recorded plat, which is recognized as a separate legal entity for purposes of transfer of title. This definition shall not be construed to make lots that were not lawfully created conform to this code.

**LOT AREA** - The area of the lot within the lot lines.

**LOT, CORNER** - A lot located at the junction of at least (2) streets at which the angle of intersection is no greater than one hundred-thirty five (135) degrees.

**LOT COVERAGE** - The percentage of lot area occupied by the ground area of principal and accessory buildings on such lot, including any decks, porches, or other enclosed areas used by residents having both a floor and walls or railings irrespective of its distance above the ground.

**LOT, DOUBLE FRONTAGE** - A lot, other than a corner lot, having frontage on two (2) streets.

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

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

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

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

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

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

LOT, LITTORAL – A lot that abuts to the shore of a lake on one (1) or more sides.

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

LOT, TRIPLE FRONTAGE – A lot which abuts a street on three sides (not a corner lot).

LOT WIDTH - The distance between side lot lines measured at the rear of the required front yard on a line parallel with a line tangent to the street right-of-way line.

MANUFACTURED HOME – A factory-built single family structure, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403, National Manufactured Home Construction and Safety Standards Act of 1974 and is to be used exclusively as a place for human habitation, but which is not constructed with permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. This definition does not include prefabricated homes constructed under the *International Residential Code (IRC)*. See (Modular Home).

MANUFACTURED HOME PARK, LICENSED - A contiguous parcel of land operated as a unit, under the same ownership where six (6) or more lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the City of North Sioux City.

MANUFACTURED HOME SALES - A business engaged in the sales or rental of manufactured homes.

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

MEETING HALL – A building, or portion thereof, owned or operated by a person, group of persons, association, corporation, or other legal entity designed for temporary social, educational, or indoor recreational uses.

MOBILE HOME – A structure that is similar in appearance to a Manufactured Home but was constructed prior to June 15, 1976.

MODULAR HOME – A factory-built single family structure certified as meeting the standards prescribed by the *International Residential Code* (IRC). Modular homes are subject to the same regulations as site-built homes. See (Dwelling, Single-Family Detached).

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

MOTOR VEHICLE, COMMERCIAL - Any motor vehicle which has more than sixteen (16) square feet of signage or which is adapted, designed, equipped, and/or used to regularly perform a specific commercial function.

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

MOTOR VEHICLE PARKING LOT – An open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored.

MOTOR VEHICLE BODY SHOP - Any building, or portion thereof, involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

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

MOTOR VEHICLE SERVICE STATION - Any building, or portion thereof, which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, welding, spray painting, or body work, or framework is conducted. Gasoline

pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest lot line.

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

**NONCONFORMING** - A condition that occurs when, on the effective date of adoption of this Ordinance or a previous ordinance, or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, parking, landscaping, buffering, lighting, development, use, or site improvement does not conform to one (1) or more of the regulations currently applicable to the district in which such lot, structure, building, sign, parking, landscaping, buffering, lighting, use, or site improvement is located.

**NONCONFORMING STRUCTURE** - A building, structure, or portion thereof lawfully existing at the time this Ordinance or a subsequent amendment thereto became effective which does not conform to the dimensional requirements of the district in which it is located.

**NONCONFORMING USE** - A use of land, buildings, structures, or premises that lawfully existed at the time this Ordinance or a subsequent amendment thereto became effective which does not conform to the use requirements of the district in which it is located.

**NONSTANDARD LOT** - The category of nonconformance consisting of lots that lawfully existed at the time this Ordinance or a subsequent amendment thereto became effective which fail to comply with the minimum lot area and minimum lot width requirements of the district in which it is located.

**NURSING HOME** - An establishment which provides full time convalescent or chronic care, or both, for two (2) or more individuals who are not related by blood or marriage to the operator and who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such an establishment. This term does not include a hospital or clinic.

**OFFICE** - A building, or portion thereof, designed for or used for the provision of professional, outpatient medical, or financial services. This term includes, but is not limited to, accounting, auditing, and bookkeeping services; advertising and graphic design; architectural, engineering, and surveying services; attorneys and court reporters; call centers; computer programming; corporate headquarters; data processing and word processing services; detective agencies; insurance; interior design; real estate sales; research and development that does not include on-site manufacturing; retail catalog, internet, and telephone order processing, but not warehousing; and virtual office services.

**OFFICIAL ZONING MAP** - The map showing the location and boundaries of districts established by this Ordinance.

**OUTDOOR STORAGE** - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles used for commercial or construction activities (e.g., portable or mechanized equipment,



building materials, manufacturing inputs, or merchandise) is stored for a period of forty-eight (48) or more consecutive hours.

**OVERLAY DISTRICT** - A zone which is overlaid upon a primary zone for the purpose of adding to the primary zone a specific regulation or regulations to meet specific locational needs not generally prevalent within the City.

**OWNER** - The holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at least ten (10) years, and the like. Whenever a statement identifying and/or requiring the consent of ownership is required by this Ordinance, full disclosure of all legal and equitable interests in the property is required.

**PARCEL OF LAND** - One (1) or more lots which are designated by the owner or applicant as land to be used or developed as a unit, or which has been developed as a unit.

**PARK** - An area open to the general public and reserved for recreational, educational, or scenic purposes.

**PARKING LOT** - An area designated for off-street parking.

**PARKING, OFF-STREET** - A site or a portion of a lot, devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives, and landscaped areas, and providing access to a public street.

**PARKING SPACE** - A hard-surfaced area, enclosed or unenclosed, sufficient in size to park one (1) motor vehicle. A parking space must be provided an unobstructed means of access, and all spaces shall meet the minimum criteria as prescribed by City Ordinance.

**PARTY WALL** - A common shared wall between two (2) separate structures, buildings, or dwelling units.

**PERMANENT FOUNDATION** - A continuous foundation around the perimeter of a structure, which, at bottom, extends no less than forty-eight (48) inches below the surface of the ground.

**PERSONAL SERVICE BUSINESS** – Commercial establishment primarily engaged in providing services involving the care of a person or their apparel, including, but not limited to, laundry or dry cleaning, receiving station, garment services, coin-operated laundries, photographic and art studios, beauty shops, barber shops, shoe repair, reducing salons, fitness gyms, and health clubs, and clothing rental.

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

**PRESCHOOL FACILITIES** - See (Day Care Center).

**PRINCIPAL BUILDING** - A building in which a primary or predominant use of the lot is conducted.

**PRINCIPAL BUSINESS PURPOSE** - In relation to the definition of “Adult Bookstore or Video Store”, this shall mean an establishment having more than five percent (5%) of its stock and trade, books, magazines, periodicals, recordings, and other materials which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined by State law, or an establishment with a segment or section specifically devoted to the sale or display of such materials.

**PRINCIPAL USE** - The primary or predominant use of any lot, including all buildings fundamental or essential thereto.

**PRIVATE AGREEMENTS** – Restrictive covenants, conditions, restrictions, easements, and other like arrangements between property owners, whether recorded in the public records or not, to which the City is not a direct party or third party with a right of enforcement.

**PROHIBITED USE** - A use that is not allowed in the specified district and in some cases the entire City.

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

**PROPERTY/PROPERTIES** - See (Lot).

**PROPERTY LINE** - See (Lot Line).

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

**PUBLIC UTILITY FACILITIES** - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; treatment stations; lift stations; telephone exchanges and repeaters; and all other facilities and equipment necessary for conducting a utility service by either a governmental, semi-public, or private entity.

**RECREATIONAL FACILITY** - A facility open to the public, with or without fees, which is designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, including, but not limited to, swimming pools; putting greens; volleyball, tennis, and basketball courts; batting, pitching, soccer, and golf cages and nets; hockey and ice rinks; skate board ramps; trampolines; archery and gun ranges; and portable flooring for aerobics, dance, and weight lifting.

RECREATIONAL VEHICLE (RV) PARK - See (Campground).

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

RECYCLING COLLECTION FACILITY – A facility or land use, regardless of name or title, at which recoverable resources, such as newspapers, magazines, glass, metal, plastics, tires, grass, leaves, and similar items, except hazardous waste and medical waste are collected, cleaned, sorted, stored, flattened, shredded, dismantled, crushed, bundled, or separated by size, grade, quality, or type, and compacted, baled, or packaged for shipment or delivery for the eventual manufacture of new products.

RECYCLING PROCESSING FACILITY – A building or site that is used for the processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user’s specifications, by such means as bailing, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, or cleaning.

REPAIR SHOP - Repair shop means a structure where activities may include welding, stitching, or other work intended to restore an item to working condition.

RESIDENCE - A permanent dwelling place.

RETAIL SERVICE OR TRADE BUSINESS – Commercial establishment engaged in selling products, goods, or merchandise to the general public for personal or household consumption and establishments engaged in providing services or entertainment to the general public including, but not limited to, restaurants, arcades, repair shops, grocery stores, and sporting goods stores.

RESTAURANT - An establishment where food and drink is prepared, served, and may be consumed on the premises.

REZONE - See (Change of Zone).

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

SCHOOL - Any building or portion thereof, whether public or private, which is designed, constructed, or used for education or instruction in any branch of knowledge.

SCHOOL, COMMERCIAL/VOCATIONAL - An educational establishment that provides for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that do not offer a complete educational curriculum (e.g., beauty school, modeling school).

SCHOOL, ELEMENTARY - Any school that is licensed by the State of South Dakota and meets its requirements for elementary education.

**SCHOOL, MIDDLE OR HIGH** - Any building or portion thereof, whether public or private, which is designed, constructed, and licensed by the State of South Dakota for middle or junior high school grades and/or secondary (high school) education.

**SETBACK/SETBACK LINE** - The line that is the required minimum distance from any lot line to a building, structure, or use.

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

**SIGN, PORTABLE** - A sign used for temporary advertising which is on wheels and portable.

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

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

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

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

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

**SITE OF HISTORICAL/CULTURAL SIGNIFICANCE** - A building, structure, or lot that is either (1) associated with events that have made a significant contribution to our history; (2) associated with the lives of significant persons; (3) emblematic of distinctive characteristics of a type, period, or method of architecture or artistry; or (4) has yielded, or may be likely to yield, information important in prehistory or history.

**SITE PLAN** - A plan or drawing showing the location of buildings, structures, parking, or other elements that are used for the issuing of permits. The drawings shall show sufficient detail to enable the Authorized Official to determine whether all applicable requirements of this Ordinance have been met.

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

**STABLE** – Any lot or portion thereof where horses or any equine animal are maintained, boarded, bred, trained, or cared for in return for remuneration, or are kept for the purpose of sale.

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

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

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

**STREET, COLLECTOR** - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development. Current and future collector streets are designated as such on the Major Street Plan in the City's Comprehensive Plan.

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

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

**STRUCTURE** - Anything constructed or erected on the ground or attached to the ground with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, signs, decks, dams, sheds, and storage tanks.

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

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

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

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

**TEMPORARY USE** - A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time.

**TRAVEL TRAILER** - Means any of the following:

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

**TRUCK AND FREIGHT TERMINAL** - An area and/or building(s) where trucks and cargo are stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of motor vehicles is performed.

**VACATION RENTAL BY OWNER (VRBO)** – Any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than fourteen (14) days in a calendar year and is not occupied by an owner or manager during the time of rental. See SDCL 34-18-1(17). If it is or is intended to be rented or leased by its owner(s) to the public for more than or equal to one hundred eighty-three (183) days per calendar year, it shall be classified as a principal use. If it is or is intended to be rented or leased by its owner(s) to the public for less than one hundred-eighty three (183) days per calendar year and is the principal dwelling of its owner(s), it shall be an accessory use.

**VARIANCE** - The authorization, following a hearing, for a lot owner to depart from certain requirements of a zoning ordinance when it is determined that the strict enforcement of its provisions would result in unnecessary hardship.

**VETERINARY CLINIC, LARGE ANIMAL** - An animal hospital or clinic that provides services for household pets (e.g., dogs, cats, birds), horses, and livestock. This term does not include medical care for wild animals.

**VETERINARY CLINIC, SMALL ANIMAL** - An animal hospital or clinic that provides services for household pets (e.g., dogs, cats, birds). This term does not include medical care for wild animals, horses, or livestock.

**WAREHOUSE** - A building where goods are received from heavy trucks and then stored for subsequent delivery to off-site wholesalers, retailers, or consumers.

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

**WASTE TRANSFER STATION** – The use of land or a facility, regardless of name or title, to unload solid waste from vehicles, and, with or without intermediate processing such as compaction, sorting, or shredding, subsequently reload the waste onto other vehicles for delivery to another transfer site, storage site, or disposal site. In addition to transferring solid waste, a waste transfer station may also include facilities for drop-off of recyclable materials (e.g., waste paper, motor oil, scrap metal, polystyrene foam, porcelain, batteries, electronic components, textiles, plastics, discarded shoes, cardboard, and other discarded household materials), where the materials are sorted, temporarily stored, and then shipped in bulk to other locations for processing.

**WHOLESALE MERCHANDISE SALES AND STORAGE HOUSES** - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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

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

**XERISCAPING** - Landscaping characterized by the use of vegetation that is drought-tolerant or of low water use in character.

**YARD, FRONT** - A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

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

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

**YARD LINE** - See (Building Line).

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

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

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

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

**ZONING DISTRICT** - See (District).

**ZONING MAP** - See (Official Zoning Map).