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## CHAPTER 4.01 DEFINITIONS

4.0101 General. For the purpose of this Title, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall is mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

4.0102 For the purpose of this Title, certain terms or words used herein shall be interpreted as follows:

Abandoned or Existing Farm Site. Must be a site that includes at least three of the following four criteria:

1. Contains an existing shelterbelt on at least two (2) sides;
2. Contains a usable well or rural water system hook-up;
3. Presently contains outbuildings, and;
4. Has an existing approach onto a public road or highway.

Sites that meet the above described criteria may be surveyed and platted and thereby split into two separate lots, plots, or tracts in recognition of lending institution mortgage requirements. This provision is exclusively intended to facilitate single family occupation of abandoned or existing farm sites and is not intended to allow multiple family subdivisions in zones not allowing such. Sites so split shall be considered a single site with regard to other provisions and requirements of this Title. Further division into more than two (2) lots, plots, or tracts is prohibited.

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

Acre(s), Gross the Total Acreage of: (1) a subdivision; (2) a contiguous zoning district; or (3) a planned development. Computations shall include all public right-of-ways except: (1) boundary streets of which only one-half of the right-of-way shall be used in any computation; and (2) publicly owned land used for community facilities such as parks, schools, libraries, etc.

Acre(s), Net. Same as Gross Acres but, excluding all public right-of-ways and publicly owned land utilized for community facilities.

Act. (FEMA) The National Flood Insurance Act of 1968 and any amendments to it.

Actual Cash Value (ACV). (FEMA) The cost to replace an insured item of property at the time of loss, less the value of its physical depreciation.

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

Anchored. (FEMA) Adequately secured to prevent flotation, collapse, or lateral movement.

Animal Manure. Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.

Animal Units. Animal species and number of a species required to equal Class A, Class B, Class C, Class D animal units. Note that these figures relate to inventory rather than annual production. Other animal species equivalents, which are not listed, will be based on species' waste production.

Animal Feeding Operation. AFOs are agricultural enterprises where animals are kept and raised in confined situations. AFOs congregate animals, feed, manure and urine, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland.

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

Antenna Support Structure. Any existing structure that supports communication facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

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

Applicant. An individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations (CAFO).

Aquifer. A zone or group of strata that can store and transmit water in sufficient quantities for specific use.

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

Area of Special Flood Hazard. (FEMA) The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zone A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

Automobile, Abandoned. Any motor vehicle, or portion thereof, which when operated on a public roadway is required to be registered by the State of South Dakota, whose registration has been expired for a period of one (1) month or more. Notwithstanding the foregoing definition, a motor vehicle or portion thereof stored within a permitted building or structure shall not be considered to be an abandoned automobile.

Automobile Sales. The use of any building, land area, or their premises for the display and sale of new or used automobiles, trucks or vans, trailers, or recreational vehicles and including any warranty repair work and other repair service conducted as an accessory use.

Automobile Service Station. Building and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:

1. Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
2. Tire servicing and repair, but not recapping or regrooving;
3. Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearing, mirrors, and the like;
4. Radiator cleaning and flushing;
5. Washing and polishing, sale of automotive washing and polishing and polishing materials;
6. Greasing and lubrication;
7. Providing and repairing fuel pumps, oil pumps, and lines;
8. Minor servicing and repair of carburetors;
9. Adjusting and repairing brakes;
10. Emergency wiring repairs;
11. Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
12. Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for automobile service station customers, as accessory and incidental to principal operation;
13. Provision of road maps and other informational material to customers; and
14. Provision of restroom facilities.

Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in automobile service stations. An automobile service station is ~~not a repair garage nor a body shop~~ **neither a repair garage nor a body shop.**

~~Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.~~ **(FEMA) A flood having a 1 percent chance of being equaled or exceeded in any given year.**

**Base Flood Depth (BFD). (FEMA) The depth shown on the Flood Insurance Rate Map (FIRM) for Zone AO that indicates the depth of water above highest adjacent grade resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year.**

**Base Flood Elevation (BFE). (FEMA) The elevation of surface water resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE and A1-A30**

~~Basement. Any area of the building having its floor grade (below ground level) on all sides.~~ **(FEMA) Any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.**

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.

Billboard. See Sign, Off-Site.

Boarding House. Any dwelling which provides sleeping and/or cooking and/or eating facilities for more than three (3) units but less than ten (10) unrelated individuals. A rooming house or furnished rooming house shall be deemed to be a boarding house. Sleeping rooms shall not be used for more than two (2) persons per room. Such dwellings shall not be open to transients.

Breakaway Wall. (FEMA) A wall that is not part of the structural support of a building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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

Building. The word "building" includes the word structure and is a structure, which is entirely separate from any other structure by space or by walls in which there is no communicating doors or windows or similar openings. A principal building including covered porches and paved patios, is a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

Building. (FEMA)

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

"Building" does not mean a gas or liquid storage tank or a recreational vehicle, a park trailer, or other similar vehicle, except as described above.

Change in Operation. "Change in operation" means a cumulative expansion of more than 300 animal units, after December 18, 1997, which are confined at an existing unpermitted concentrated animal feeding operation.

Collocation. The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Commission. The Brown County Planning and Zoning Commission.

Community. (FEMA) A political entity that has the authority to adopt and enforce floodplain ordinances or the area under its jurisdiction.

Community Number. (FEMA) A 6-digit designation identifying each NFIP community. The first 2 numbers are the state code. The next 4 are the FEMA-assigned community number. An alphabetical suffix is added to a community number to identify revisions in the Flood Insurance Rate Map (FIRM) for that community.

Community Rating System (CRS). (FEMA) A program developed by FEMA to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Concentrated Animal Feeding Operation. Refer to Chapter 4.32 for complete set of regulations and definitions of terms pertinent to Concentrated Animal Feeding Operations.

Condominium. (FEMA) That form of ownership of real property in which each unit owner has an undivided interest in common elements.

Condominium Association. (FEMA) The entity made up of the unit owners responsible for the Maintenance and operation of the following:

- Common elements owned in undivided shares by unit owners;
- Other real property in which the unit owners have use rights; where membership in the entity is a required condition of unit ownership.

Conditional Use. A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district as conditional uses, as specific provisions for such exception are made in these zoning regulations. Conditional uses are subject to evaluation and approval by the Board of Adjustment and are administrative in nature. (Ord. 2004-1)

Contamination, Air. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration, mining, or milling operation that increases ambient air radiation levels by 50 mrems from the background levels established prior to the commencement of such activity, measured at the perimeter of the mining or milling site or at the top of an exploration hole.

Contamination, Water. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration, mining, or milling operation that exceeds the maximum contaminate levels established by the Federal Safe Drinking Water Act and regulations promulgated thereunder.

County Board. The Brown County Board of Commissioners.

Countywide Map. (FEMA) A Flood Insurance Rate Map (FIRM) that shows flooding information for the entire geographic area of a county, including the incorporated communities within the county.

Crawlspace. (FEMA) An under-floor space that has its interior floor area (finished or not) no more than 5 feet below the top of the next-higher floor. Crawlspace generally have solid perimeter foundation walls. May also refer to Diagram in the Elevation Certificate (EC) instructions.

Critical Feature. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Date of Construction. (FEMA) The date that the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date.

Density. Pertaining to the number of dwelling units per net acre or gross acre, as indicated for the appropriate zoning district. Residential District density shall not be exceeded for new subdivisions nor exceeded for resubdivision of existing platted land.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling operations or storage of equipment or materials.

Direct Physical Loss By or From Flood. (FEMA) Loss or damage to insured property, directly caused by a flood. There must be evidence of physical changes to the property.

Doublewide Manufactured (Mobile) Home. (FEMA) A manufactured (mobile) home that, when assembled as a non-movable, permanent building, is at least 16 feet wide and has an area within its perimeter walls of at least 600 square feet.

Drive-in Restaurants or Refreshment Stands. Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling, Mobile Home. See Mobile Home.

Dwelling, Multiple Family. ~~A residential dwelling designed for or occupied by two (2) or more families living independently of each other and doing own cooking in said dwelling. The number of families in residence not to exceed the number of dwelling units provided.~~ (FEMA) A building designed for use as a residence for no more than 4 families or a single-family unit in a building under the condominium form of ownership.

Dwelling, Single Family. A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family.

Efficiency Unit. A dwelling unit having only one (1) room exclusive of bathroom, water closet compartments, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted in a multi-family dwelling.

Elevated Building. (FEMA) A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid (perimeter) foundations walls are not an acceptable means of elevating buildings in V and VE zones. A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also

~~includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building” even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3 (e) (5) of the National Flood Insurance Program regulations.~~

Emergency Program. (FEMA) The initial phase of a community's participation in the National Flood Insurance Program, as prescribed by Section 1306 of the Act.

Employee(s). In regard to off-street parking requirements, employees mean all who work in the enterprise including owners.

Enclosure. (FEMA) That portion of an elevated building below the lowest elevated floor that is either partially or fully shut in by rigid walls.

Existing Construction. (FEMA) For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM (09/30/1988). “Existing construction” may also be referred to as “existing structures.”

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

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

Exploration. The act of searching for or investigating a mineral deposit. It includes, but is not limited to, sinking shafts, tunneling, drilling core and bore holes, digging pits or cuts, and other works for the purpose of extracting samples prior to commencement of development of extraction operations and the building of roads, access ways, and other facilities related to such work. Any and all shafts, tunnels, or holes shall not exceed 18 inches in diameter unless the conditional use for exploration provides for a larger diameter. The term does not include those activities which cause no, or very little surface disturbance, such as; airborne surveys and photographs; use of instruments or devices which are hand carried or otherwise transported over the surface to make magnetic, radioactive, or tests and measurements; boundary or claim surveying, location work, or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not involved in exploration.

Fair Market Value. (FEMA) The price that the seller is willing to accept and the buyer is to pay on the open market and in an arm's length transaction.

Family. An individual or two or more persons, related by blood or marriage, living together as a single-housekeeping unit in a dwelling unit, in each instance with no more than two non-related people being housed in the same dwelling unit, but provided further that domestic servants employed on the premises may be housed on the premises without being counted as a family or



families. The word "family" shall not include groups occupying nursing homes, group houses, fraternity houses, sorority houses, dormitories, barracks; however, a portion of a building in this category may consist of one or more dwelling units occupied by a family or families.

Farm. A tract of land together with fields, buildings, farm implements, animals, and personnel for the intended purpose of producing crops of which livestock feeding may be a part of.

Farm Dwelling. Any dwelling owned or occupied by the farm owners, operators, tenants, or seasonal or year-round hired workers.

Farm Unit. All buildings and structures needed in agricultural operation, including dwellings for owners, operators, farm laborers employed on the farm and other family members.

Feedlot, Commercial. A commercial feedlot is a place where the principal business is the feeding of livestock and such feeding is not done in conjunction with the production of crops on a farm of which the feedlot is a part.

Federal Emergency Management Agency (FEMA). The Federal agency under which the NFIP is administered. In March 2003, FEMA became part of the newly created U.S. Department of Homeland Security.

Finished (Habitable) Area. (FEMA) An enclosed area having more than 20 linear feet of finished interior walls (paneling, etc.) or used for any purpose other than solely for parking of vehicles, building access, or storage.

Flood Hazard Boundary Map (FHBM). (FEMA) Official map of a community issued by FEMA, where the boundaries of the flood, mudflow, and related erosion areas having special hazards have been designated.

Flood Hazard-Special Area. The land in the Floodplain subject to a one percent or greater chance of flooding in any given year.

Flood Insurance Rate Map (FIRM). (FEMA) ~~The Official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.~~ Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs), and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary - Floodway Map, and the water surface elevation of the base flood.

Flood or Flooding. (FEMA)

- A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters; and/or
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
  3. Mudflow; or
- Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.

Floodplain or Flood-Prone Area. (FEMA) Any land area susceptible to being inundated by water from any source (See definition of flooding). by floodwaters from any source.

Floodplain Management. (FEMA) The operation of an overall program of corrective and preventive measures for reducing flood damage, included but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

~~Floodplain Management Regulations.—Zoning Ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction. (FEMA) The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works, and floodplain management regulations.~~

Floodproofing. (FEMA) Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood Protection System. (FEMA) Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodway. (FEMA) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without accumulatively increasing the water surface.

Floor Area. The sum of all gross horizontal area of the several floors of a building and its accessory buildings on the same lot excluding basement floor areas and non-enclosed portions of the structure. All dimensions shall be measured between exterior faces of walls.

Foundation Walls. (FEMA) Masonry walls, poured concrete walls or precast concrete walls, regardless of height, that extend above grade and support the weight of a building.

Freeboard. (FEMA) An additional amount of height above the Base Flood Elevation (BFE) used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure’s lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.

Grade Elevation. (FEMA) The lowest or highest finished ground level that is immediately adjacent to the walls of the building. Use natural (pre-construction), ground level, if available, for Zone AO and Zone A (without BFE).

Grandfathering. (FEMA) An exemption based on circumstances previously existing.

- Under NFIP statutory grandfathering, buildings located in Emergency Program communities and Pre-FIRM buildings in the Regular Program are eligible for subsidized flood insurance rates.
- Under NFIP administrative grandfathering, Post-FIRM buildings in the Regular Program built in compliance with the floodplain management regulations in effect at the start of construction will continue to have favorable rate treatment even though higher Base Flood Elevations (BFEs) or more restrictive, greater risk zone designations result from FIRM revisions. Policyholders who have remained loyal customers of the NFIP by maintaining continuous coverage (since coverage was first obtained on the building) are also eligible for administrative grandfathering.

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

Groundwater. Subsurface water that fills available openings in rock or soil materials such that it may be considered water saturated.

Habitable Floor. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

High Voltage Transmission Line. A conductor of electric energy and associated facilities.

High Watermark. (FEMA) Point where permanent vegetation begins.

Highest Adjacent Grade. (FEMA) The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure. (FEMA) Any structure that is:

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

Home Occupation. An occupation conducted on the premises provided that:

1. The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than thirty

(30) percent of the floor area of the dwelling shall be used in the conduct of the home occupation.

2. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

3. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises.

4. No more than one other person, in addition to members of the family residing on the premises, shall be engaged in such occupation.

5. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated and mounted flat against the wall of the principal building.

Husbandry, Poultry. This refers to the domestic practice of raising different types of birds and chicken for different purposes. Some of the domestic birds that makes about this practice include chicken, ducks, and fowls among others.

Husbandry, Animal. The science of breeding and caring for farm animals. The branch of agriculture concerned with animals that are raised for meat, fiber, milk, eggs, or other products.

Hydrologic Balance. The relationship between the quality and quantity of inflow to and outflow from the storage in hydrologic units, such as drainage base and aquifer; soil zone lake or reservoir it encompasses; and the quantity and quality relationships between precipitation, runoff, evaporation, and the change in ground and surface water storage.

Hydrologic Regime. The entire state of water movement in a given area which is a function of the climate and includes the entire water cycle for the drainage area.

Improved Road. Roads with at least a gravel base and utilized regularly by more than one (1) household.

Improvements and Betterments. (FEMA) Fixtures, alterations, installations or additions made or acquired solely at a tenant's expense and comprising part of an insured building.

Increased Cost of Compliance. (FEMA) Coverage for expenses that a property owner must incur, above and beyond the cost to repair the physical damage the structure actually sustained from a flooding event, to comply with mitigation requirements of state or local floodplain management ordinances or laws. Acceptable mitigation measures are elevation, floodproofing, relocation, demolition or any combination thereof.

Junkyards. A junkyard is a place where unrecyclable waste having no economic value, or waste which is recyclable but has no chance of being recycled is deposited. (See also Salvage Yard.)

Kennels. Any lot, structure, or premise where four (4) or more dogs and/or ten (10) or more cats four (4) months of age are kept.

Large Wind Energy Conservation System or LWECS. All WECS facilities excluding Small Wind Energy Conservation Systems.

Lattice Tower. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation to the top.

Letter of Determination Review (LODR). (FEMA) FEMA's ruling on the determination made by a lender or third party that a borrower's building is in a Special Flood Hazard Area (SFHA). A LODR deals only with the location of a building relative to the SFHA boundary shown on the Flood Insurance Rate Map (FIRM).

Letter of Map Amendment (LOMA). (FEMA) An amendment to the currently effective FEMA map which establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is issued only by FEMA.

Letter of Map Revision (LOMR). (FEMA) An official amendment to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.

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

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

Loading Space, Off-Street. Adequate space, logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used such as trucks, tractors, trailers, etc., and accessible to such vehicles at all times. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot. A parcel of land occupied or intended for occupancy by a use permitted in Title 4, including one main building together with its accessory buildings and open spaces and parking spaces required by this Title, and having its principal frontage upon a street.

Lot Depth. The mean horizontal distance between the front lot line and rear lot line of a zoning lot. In the case of a corner lot, the lot depth is the greater of the mean horizontal distances between the front lot lines and respective side lot opposite each.

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards as defined herein.

Lot of Record. A lot or parcel of land that has access to a street, the deed of which has been recorded in the Office of the County Register of Deeds prior to the adoption of these revised

Ordinances and may be used for the uses in the district in which it is located except as hereinafter specified.

Lot Types. Any lot within the jurisdiction of Title 4 shall be one of the following types:

1. Corner Lot. A corner lot is defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.
2. Interior Lot. An interior lot is defined as a lot other than a corner lot with only one frontage on a street.
3. Through Lot. A through lot is defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Lot Width. The mean horizontal distance between side lot lines measured at right angles to the lot depth.

Lowest Adjacent Grade. (FEMA) The lowest point of the ground level immediately next to a building.

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

Lowest Floor Elevation (LFE). (FEMA) The measured distance of a building's lowest floor above the National Geodetic Vertical Datum (NGVD) or other datum specified on the FIRM for that location.

Mandatory Purchase. (FEMA) Under the provisions of the Flood Disaster Protection Act of 1973, individuals, businesses and others buying, building or improving property located in identified areas of special flood hazards within participating communities are required to purchase flood insurance as a prerequisite for receiving any type of direct or indirect federal financial assistance (e.g., any loan, grant, guaranty, insurance, payment, subsidy or disaster assistance) when the building or personal property is the subject of or security for such assistance.

Manufactured (Mobile) Home. Includes the term mobile home and means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park or travel trailers and other similar vehicles when on a site for greater than 180 consecutive days.

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

Manufactured (Mobile) Home Park or Subdivision, Existing. (FEMA) A manufactured (mobile) home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured (mobile) homes are to be affixed (including, at a minimum, the installation of

utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or before the effective date (09/30/1988) of the community's initial Flood Insurance Rate Map (FIRM).

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

Manufactured (Mobile) Home Park or Subdivision, New. (FEMA) A manufactured (mobile) home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured (mobile) homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date (09/30/1988) of the community's initial Flood Insurance Rate Map (FIRM), whichever is later.

Map Revision. (FEMA) A change in the Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) for a community which reflects revised zone, base flood or other information.

Masonry Walls. (FEMA) Walls constructed of individual components laid in and bound together with mortar. These components can be brick, stone, concrete block, etc.

Mean Sea Level. (FEMA) For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Milling. The processing or enhancing of a mineral.

Mine Dewatering Discharge. Water that has been discharged from active or abandoned mines in areas affected by mineral exploration, mining, and milling.

Mineral. An inanimate constituent of the earth in a solid, liquid, or gaseous state which, when extracted from the earth, is usable in its natural form as a metal, a metallic compound, a chemical, an emergency source, or a raw material for manufacturing or construction material. For the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel, and quarry rock.

Mineral Extraction. The removal of a mineral from its natural occurrence on affected land. The term includes, but is not limited to, underground and surface mining.

Mobile Home. (FEMA) A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered a mobile home. ~~Any occupied vehicle used or so considered as to permit it being used as a conveyance on the public streets or highways and duly licensed as such, and shall include self-propelled or non-self-propelled vehicles so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such a manner as will permit the occupancy thereof~~

~~as a dwelling or sleeping place for one or more persons. Nothing in this definition shall be construed so as to include prefabricated, precut residences or those manufactured in sections or parts away from the site and transported thereto for erection, provided that when completely erected, said prefabricated, precut, or manufactured residences shall be on a permanent foundation and in all respects comply with the Uniform Building Code, 1967 Edition and Amendments thereto, recommended by the International Conference of Building Officials.~~

Mobile Home Park. Any premises where two or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for two or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended wholly or in part, for the accommodation of automobile transients.

Monopole. A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Mrem. One thousandth of a REM.

National Flood Insurance Program (NFIP). (FEMA) The program of flood insurance coverage and floodplain management administered under the Act and applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

National Geodetic Vertical Datum (NGVD) of 1929. (FEMA) National standard reference datum for elevations, formerly referred to as Mean Sea Level (MSL) of 1929. NGVD 1929 may be used as the reference datum on some Flood Insurance Rate Maps (FIRMs).

Natural Grade. (FEMA) The grade unaffected by construction techniques such as fill, landscaping or berming.

New Construction. (FEMA) Structures for which the "start of construction" commenced on or after the effective date of this ordinance (09/30/1988).

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

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

Newly Mapped (A Property Newly Mapped into the SFHA). (FEMA) A property that was once designated outside of the Special Flood Hazard Area (SFHA) on an effective Flood Insurance Rate Map (FIRM), and following a map revision, is designated within the SFHA. Property newly mapped into the SFHA by a map revision on or after April 1, 2015, and meeting certain loss



history requirements is eligible for the Newly Mapped rating procedure outlined in the Newly Mapped section of this manual if coverage is purchased within 1 year of the map revision and continuously maintained. A property meeting the loss history requirements and newly mapped into the SFHA by a map revision effective on or after October 1, 2008, and before April 1, 2015, may be insured under the Newly Mapped rating procedure if coverage is purchased on or after April 1, 2015, but before April 1, 2016, and maintained continuously. The newly mapped procedure is not available for any property mapped into the SFHA by the initial FIRM.

Nonconforming Use. Any building or land lawfully occupied by use at the time of passage of Title 4, which does not conform after passage of this Title.

Non-Farm Dwelling. Any occupied dwelling which is not a farm dwelling.

Non-Primary Residence. (FEMA) A residential building that is not the primary residence of the policyholder.

Non-Primary Residential Property. (FEMA) Either a nonprimary residence or the contents within a non-primary residence, or both.

Non-Residential Building. (FEMA) A commercial or mixed-use building where the primary use is commercial or non-habitational.

Non-Residential Property. (FEMA) Either a non-residential building, the contents within a non-residential building, or both.

North American Vertical Datum (NAVD) of 1988. (FEMA) The vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988. It replaces the National Geodetic Vertical Datum (NGVD) of 1929.

Other Non-Residential Building. (FEMA) This is a subcategory of nonresidential buildings; a non-habitational building that does not qualify as a business building or residential building.

Other Residential Building. (FEMA) A residential building that is designed for use as a residential space for five or more families or a mixed-use building in which the total floor area devoted to non-residential uses is less than 25 percent of the total floor area within the building.

Other Residential Property. (FEMA) Either an other-residential building, the contents within an other residential building, or both.

Otherwise Protected Areas (OPAs). (FEMA) Areas established under federal, state or local law or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational or natural resource conservation purposes. The only federal spending prohibition within OPAs is federal flood insurance.

Out-As-Shown Determination. (FEMA) An alternative outcome of the FEMA letter of Map Amendment (LOMA) review process stating that a specific property is located outside the Special Flood Hazard Area (SFHA) as indicated on the Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM).

Parking Space, Off-Street. For the purposes of Title 4, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designated, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, so that any automobile may be parked and un-parked without moving another.

For purposes of rough computation, off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the county.

Participating Community. (FEMA) A community for which FEMA has authorized the sale of flood insurance under the NFIP.

Performance Standards. It is a criterion established for the purposes of:

1. Assigning proposed industrial uses to proper districts; and
2. Making judgments in the control of noise, odor, smoke, toxic matter, vibration, fire and explosive hazards, or glare generated by, or inherent in, uses of land or buildings.

Permit. (FEMA) A permit required by these regulations unless stated otherwise.

Person. An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, consumers power district, or any other entity, public or private, however organized.

Planned Development. A means of developing or redeveloping existing larger parcels or combinations of smaller parcels of land within the jurisdiction of this Title, by allowing more flexibility in design to produce a more aesthetic and/or efficient environment, and which through safeguards incorporated elsewhere in this Title will assure that any such planned development will be in harmony and compatible with the intent of this Title and the appropriate zoning district of this Title.

More specifically, a planned development is land, which is under:

1. Single ownership; or
2. Unified control, and wherein such land is to be utilized for ultimate use by:
  - a. Single ownership, or
  - b. Unified control, or
  - c. Separate ownership and unified control, or
  - d. Separate ownership without unified control, and whereon such land is designed for use as one building or a group of buildings and whereon such land there may or may not be provisions for multiple purpose uses. Standards and requirements within the various zoning districts permitting a planned development are indicated in Chapter 4.12 of this Title.

Any such planned development shall be compatible to the Comprehensive Plan for Brown County, South Dakota. Provided further, if the proposed development is only for a portion of the contiguous landholdings of the applicant(s), then a simple, schematic plan showing anticipated uses, densities, shall be submitted with application for any planned development.

Ponding Hazard. (FEMA) A flood hazard that occurs in flat areas when there are depressions in the ground that collect "ponds" of water. The ponding hazard is represented by the zone designation AH on the Flood Insurance Rate Map (FIRM).

Post-FIRM Building. (FEMA) A building for which construction or substantial improvement occurred after December 31, 1974 or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

Potential Pollution Hazard. A Concentrated Animal Feeding Operation of 0-300 Animal Units may be classified as a Class D Operation by the County Zoning Officer when a Potential Pollution Hazard exists. Factors to be considered by the Zoning Officer in determining a Potential Pollution Hazard include the following:

1. The Concentrated Animal Feeding Operation does not meet the minimum setback and separation distances of these regulations.
2. A Potential Water Pollution Hazard exists due to sitting over a shallow aquifer or drainage, which contributes to the waters of the State.

Pre-FIRM Building. (FEMA) A building for which construction or substantial improvement occurred on or before December 31, 1974 or before the effective date of an initial Flood Insurance Rate Map (FIRM).

Preferred Risk Policy (PRP). (FEMA) A lower-cost Standard Flood Insurance Policy (SFIP) written under the Dwelling Form or General Property Form. It offers fixed combinations of building/contents coverage limits or contents-only coverage. The PRP is available for property located in B, C and X Zones in Regular Program communities that meets eligibility requirements based on the property's flood loss history. It is also available for buildings that are eligible under the PRP Eligibility Extension.

Primary Residence. (FEMA) A single family building, condominium unit, apartment unit, or unit within a cooperative building that will be lived in by the policyholder or the policyholder's spouse for:

1. More than 50 percent of the 365 calendar days following the current policy effective date; or
2. 50 percent or less of the 365 calendar days following the current policy effective date if the policyholder has only one residence and does not lease that residence to another party or use it as rental or income property at any time during the policy term.  
A policyholder and the policyholder's spouse may not collectively have more than one primary residence.

Primary Residential Property. (FEMA) Either a primary residence or the contents within a primary residence, or both.

Principal Residence. (FEMA) A single-family dwelling in which, at the time of loss, the named insured or the named insured's spouse has lived for either 80 percent of the 365 days immediately preceding the loss or 80 percent of the period of ownership, if less than 365 days.

Principally Above Ground Building. (FEMA) A building that has at least 51 percent of its Actual Cash Value (ACV), including machinery and equipment, above ground.

Probation. A FEMA-imposed change in a community's status resulting from violations and deficiencies in the administration and enforcement of NFIP local floodplain management regulations.

Probation Surcharge (Premium). (FEMA) A flat charge that the policyholder must pay on each new or renewal policy issued covering property in a community that the NFIP has placed on probation under the provisions of 44 CFR 59.24.

Process Generated Wastewater. Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from water systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

Process Wastewater. "Process wastewater" means any process generated wastewater and any precipitation (rain or snow) that comes into contact with animals, manure, litter or bedding, feed or other portions of the animal feeding operation. The term includes runoff from an open lot.

Proper Openings - Enclosures (Applicable to Zones A, A1-A30, AE). (FEMA) All enclosures below the lowest elevated floor must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. A minimum of two openings, with positioning on at least two walls, having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding must be provided. The bottom of all openings must be no higher than 1 foot above the higher of the exterior or interior (adjacent) or floor immediately below the openings.

Public Utility Substation. An area where facilities are provided for the distribution of telephone, radio, communications, water, gas, and electricity. These facilities shall be permitted as a conditional use in the various zoning districts subject to conditions, which will assure their harmony, especially aesthetically with the nature of the respective district.

Recharge Capacity. The ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

Recreational Vehicles (RV). A vehicular which is:

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

Regular Program. (FEMA) The final phase of a community's participation in the NFIP. In this phase, a Flood Insurance Rate Map (FIRM) is in effect and full limits of coverage are available under the Act.

Regular Program Community. (FEMA) A community wherein a Flood Insurance Rate Map (FIRM) is in effect and full limits of coverage are available under the Act.

REM (Roentgen Equivalent In Man). A measurement of the biological effects resulting from ionizing radiant energy where Roentgen is the amount of radiation leading to the absorption of 88 ergs of energy per gram of air.

Repetitive Loss Structure. (FEMA) An NFIP-insured structure that has had at least two paid flood losses of more than \$1,000 each in any 10-year period since 1978.

Replacement Cost Value (RCV). (FEMA) The cost to replace property with the same kind of material and construction without deduction for depreciation.

Residential Building. (FEMA) A non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, 2 - 4 family, or other residential building.

Residential Condominium Building. (FEMA) A building, owned and administered as a condominium, containing 1 or more family units and in which at least 75 percent of the floor area is residential.

Residential Condominium Building Association Policy (RCBAP). (FEMA) See "Standard Flood Insurance Policy (SFIP)-Residential Condominium Building Association Policy (RCBAP)."

Residential Property. (FEMA) Either a residential building or the contents within a residential building, or both.

Route. The location of a High Voltage Transmission Line between two end points. The route may have a variable width of up to 1.25 miles.

Salvage Yard. The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of a lot, or tract of land for sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

Section 1316. (FEMA) Section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that FEMA finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations or ordinances that are intended to discourage or otherwise restrict land development or occupancy in floodprone areas.

Severe Repetitive Loss Building. (FEMA) Any building that:

1. Is covered under a Standard Flood Insurance Policy made available under this title;
2. Has incurred flood damage for which:
  - a. Four or more separate claim payments have been made under a Standard Flood Insurance Policy issued pursuant to this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; *or*
  - b. At least two separate claims payments have been made under a Standard Flood Insurance Policy, with the cumulative amount of such claim payments exceed the fair market value of the insured building on the day before each loss.

Severe Repetitive Loss Property. (FEMA) Either a severe repetitive loss building or the contents within a severe repetitive loss building, or both.

Shall. "Shall" means that the condition is an enforceable requirement of this permit.

Shallow Aquifer. An aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.

Shallow Well. A well which is located in a shallow aquifer.

Salvage Yards. The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of a lot, or tract of land for the sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof. (See also Junkyards).

Shelterbelts/Fieldbelts. A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock, residences, recreation areas, and wildlife from wind.

~~Shade and ornamental trees are not considered as shelterbelts.~~ For the purpose of this ordinance, a shelterbelt shall include ten (10) or more trees planted in a line forming a row and separating each row by a distance of forty (40) feet or less.

Shooting/Hunting Preserve. Any acreage, either privately owned or leased, on which hatchery raised game is released for the purpose of hunting for a fee, over an extended season.

Should. "Should" means that the condition is a recommendation. If violations of the permit occur, the County will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.

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

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

Sign, Off-site. A sign other than an exterior or interior on-site sign. Off-site signs are more conventionally known as billboards regardless of size.

Sign, On-site, Exterior. An exterior sign relating to its subject to the premises on which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards, which are off-site signs.

Sign, On-site, Interior. A sign on the interior of a structure relating its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises. As long as any such sign is not normally viewable from the exterior of the premises, it shall not be regulated by this Title.

Significant Contributor of Pollution. To determine if a concentrated animal feeding operation meets this definition, the following factors are considered:

1. Size of feeding operation and amount of manure reaching waters of the state;
2. Location of the feeding operation in relation to waters of the state;
3. Means of conveyance of manure and process wastewater into waters of the state;
4. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewater into waters of the state.

Small Wind Energy Conservation System or SWECS. A WECS facility with a single tower height of less than seventy-five (75) feet used primarily for on-site consumption of power.

Special Exception/Conditional Use. A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to the number, area, location or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provisions for such special exception is made in this Title.

Start of Construction. Includes substantial improvement, and means the date the Building Permit was issued, providing the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction for a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms.

Street Line. The lot line abutting right-of-way line.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground; among other things, structures include

buildings, mobile or manufactured homes, walls, gas or liquid storage tank, (that is principally above ground) signs, fences and billboards.

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

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

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

System Height. The height above grade of the tallest point of the WECS, including the rotor radius.

Telecommunication. The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

Tiny Home. A tiny home is typically a small residential structure under 500 square feet.

Tiny Home Movement. Is an architectural and social movement that advocates living simply in small homes that can provide much-needed cost-effective and energy-efficient housing, and can be a creative solution to the current housing crisis.

Tower Height. The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

Travel Trailer. A trailer drawn especially by an automobile and equipped for use (as while traveling) as a dwelling.

Trailer House. A large trailer, fitted with parts for connection to utilities, that can be installed on a relatively permanent site and that is used as a residence. Also called *manufactured home*.

Truck or Equipment Terminal. Any lot, structure or premises used for the parking or storage of capital equipment such as trucks, trailers, or other like equipment, over 3/4 ton capacity.

Turbine. The parts of the WECS including the blades, generator and tail.

Utility Substation. See Public Utility Substation.



Variance. A variance is a relaxation of the terms of Title 4 where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Title would result in unnecessary and undue hardship. As used in this Title, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformity in the zoning district. This is NOT to be confused with a conditional use.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Title is presumed to be in violation until such time as that documentation is provided.

Water of the State. "Water of the State" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains.

Water Table. The upper surface of a zone of saturation where the body of groundwater is not confined by an overlying impermeable zone.

Wildlife Propagation. Means the production of offspring that qualify as wildlife from captive live wildlife parents.

Wind Energy Conservation System or WECS. A commonly owned and/or managed integrated system that converts wind movement into electricity. All of the following are encompassed in this definition of system:

1. Tower or multiple towers,
2. Generator(s),
3. Blades,
4. Power collection systems, and
5. Electric interconnection systems or portion thereof dedicated to the WECS.

Wireless Telecommunications Antenna. A device, dish or array used to transmit or receive telecommunication signals.

Wireless Telecommunications Equipment Shelter. The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

Wireless Telecommunications Facility. A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Wireless Telecommunications Tower. A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

Yard. A required open space other than a court, unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the grade of the lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front. A yard extending between side lot lines across the front of a lot adjoining a public street. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30) inches and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the height of thirty (30) inches to ten (10) feet.

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

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

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

In the case of corner lots with more than two (2) frontages, the administrative official shall determine the front yard requirements, subject to the following limitations:

1. At least one front yard shall be provided having the full depth required generally in the district; and
2. No other front yard on such lot shall have less than half the full depth required generally.

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

Yard, Side. A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point of the lot farthest from the intersection of the lot line involved with the public street.

In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half depth front yards have been established shall be considered side yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the side lot line.

Yard, Rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the rear lot line.

Yard, Special. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed to perform like functions as a side yard, but next to a lot line so located or oriented that neither the term side yard nor the term rear yard clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be placed to the adjoining lot(s), with due consideration to the orientation and placement of structures and buildable areas thereon.

Zone A. Areas subject to inundation by the 1-percent-annual-chance flood event. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown.

Zone AE. Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. BFEs are shown within these zones. (Zone AE is used on new and revised maps in place of Zones A1–A30.)

Zone Floodway. A floodway is the area of the floodplain that should be kept free of obstructions to allow floodwaters to move downstream. Rivers and streams where FEMA has prepared detailed engineering studies may also have designated floodways. For most rivers and streams, the floodway is where the water is likely to be the deepest and fastest.

Zone X-shaded. Moderate risk areas within the 0.2-percent-annual-chance floodplain, areas of 1-percent-annual-chance flooding where average depths are less than 1 foot, areas of 1-percent-annual-chance flooding where the contributing drainage area is less than 1 square mile, and areas protected from the 1-percent-annual-chance flood by a levee. No BFEs or base flood depths are shown within these zones. (Zone X (shaded) is used on new and revised maps in place of Zone B.)

Zone X-unshaded. Minimal risk areas outside the 1-percent and 0.2-percent-annual-chance floodplains. No BFEs or base flood depths are shown within these zones. (Zone X (unshaded) is used on new and revised maps in place of Zone C.)



## CHAPTER 4.02 JURISDICTION

4.0201 Jurisdiction. The provisions of Title 4 shall apply within the unincorporated area of Brown County, South Dakota, (excluding areas of joint jurisdiction being: ~~three (3) miles of Aberdeen,~~ one (1) mile of Groton, one (1) mile of Hecla, one-half (1/2) mile of Frederick, and one and one-half (1 1/2) miles of Warner City limits; and also including the incorporated communities of Claremont, Columbia and Stratford, as established on the map entitled "The Official Zoning Map of Brown County, South Dakota".

4.202 Provisions of Title 4 Declared to be Minimum Requirements. In their interpretation and application, the provisions of this Title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. This Title is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever the provisions require a greater width or size or yards, courts, or other spaces, or require a lower height of buildings or less number of stories or require a greater percentage of lot to be left unoccupied, or impose other higher standards that are required, in any other ordinance, the provisions of this Title shall govern.

Wherever the provisions of any other ordinance require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Title, the provisions of such ordinance shall govern.

## CHAPTER 4.03            OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION

4.0301 General. The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereof, is hereby adopted by reference and declared to be a part of this Title. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 4.03 enacted by Revised Ordinance No. 2 of Brown County, South Dakota," together with date of the adoption of this revised Ordinance.

4.0302 Zoning Map Changes. If, in accordance with the provisions of Title 4, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of County Commissioners with an entry on the Official Zoning Map as follows: "On /Date/, by official action of the Board of County Commissioners, the following change/changes were made in the Official Zoning Map: /brief description of nature of change/," which entry shall be signed by the Chairman of the Board of County Commissioners and attested by the County Auditor. No amendment to Title 4 which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said Map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Title.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 4.28.

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

4.0303 Zoning Map Replacement. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted "*date of adoption*" of zoning map being replaced/ as part of Ordinance No. 1, Second Revision of Brown County Ordinances, Brown County, South Dakota."

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

4.0304 Rules for Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shorelines, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;
7. Where physical or cultural features existing on the ground are at variance with those shown of the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the County Planning Commission and/or Board of Adjustment shall interpret the district boundaries;
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the County Planning Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

## CHAPTER 4.04

## APPLICATION OF DISTRICT REGULATIONS

- 4.0401 General. The regulations set forth within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.
- 4.0402 Zoning Affects Every Building and Use. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- 4.0403 Performance Standards. No building or other structure shall hereafter be erected or altered;
1. To exceed the height or bulk;
  2. To accommodate or house a greater number of families;
  3. To occupy a greater percentage of lot area; and
  4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required; or in any other manner contrary to the provisions of this Title.
- 4.0404 Open Space, Off-Street Parking, and Loading Space. No part of a yard, other open space, off-street parking, or loading space required about or in connection with any building for the purpose of complying with this Title, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- 4.0405 Yard and Lot Reduction Prohibited. No yard or lot existing at the time of passage of this Title shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- 4.0406 Unclassified or Unspecified Uses. May be permitted as ~~special exception~~ Conditional Use by the Zoning Board of ~~Zoning~~ Adjustment (BOA) after the County Planning / ~~and~~ Zoning Commission has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district.



## CHAPTER 4.05 ESTABLISHMENT OF DISTRICTS

4.0501 Planning Commission Recommendations. It shall be a purpose of the Brown County Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Board of County Commissioners shall not hold public hearings or take action until it has received the final report of the County Planning Commission.

4.0502 Districts Created. For the purposes of zoning, there are hereby created 15 types of districts by which the jurisdictional area defined in Chapter 4.02 shall be divided:

(AG-P)	<u>Chapter 4.06</u> Agriculture Preservation <u>District</u> (4.06)
(M-AG)	<u>Chapter 4.07</u> Mini-Agriculture <u>District</u> (4.07)
(R-1)	<u>Chapter 4.08</u> Residential <u>District</u> (4.08)
(R-2)	<u>Chapter 4.09</u> Residential – <u>Planned</u> Mobile Home Park <u>District</u> (4.09)
(R-3)	<u>Chapter 4.10</u> Lake Front <u>Residential District</u> (4.10)
(RU)	<u>Chapter 4.11</u> Rural Urban <u>District</u> (4.11)
(P-1)	<u>Chapter 4.12</u> Planned Development <u>District</u> (4.12)
(C)	<u>Chapter 4.13</u> Commercial <u>District</u> (4.13)
(HC)	<u>Chapter 4.14</u> Highway Commercial <u>District</u> (4.14)
(L-I)	<u>Chapter 4.15</u> Light Industrial <u>District</u> 4.15)
(H-I)	<u>Chapter 4.16</u> Heavy Industrial <u>District</u> (4.16)
(CN)	<u>Chapter 4.17</u> Conservation <u>District</u> (4.17)
(RC)	<u>Chapter 4.18</u> Recreation <u>District</u> (4.18)
(FP)	<u>Chapter 4.19</u> Floodplain <u>District</u> (4.19)
(M)	<u>Chapter 4.20</u> <u>Municipal, State and County Use District</u> (4.34)

## CHAPTER 4.06 AGRICULTURE PRESERVATION DISTRICT (AG-P)

4.0601 Statement of Intent. The intent of the Agriculture Preservation District is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment shall be continued; to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

4.0602 Permitted Principal Uses and Structures. The following principal uses and structures shall be permitted in the Agriculture Preservation District:

1. Any form of agriculture including the raising of crops, horticulture (non-commercial), animal husbandry, and poultry husbandry yet excluding commercial feedlots;
  - a. Commercial Feedlots are not a permitted use and require an approval of a Conditional Use Permit through the Zoning Board of Adjustment.
  - b. Also, refer to CAFO regulations in Section 4.32 for commercial feedlots.
2. A family farm unit and their normal accessory buildings ~~including mobile homes;~~
3. A single-family dwelling/two-family dwelling including a mobile, trailer or modular home;
  - a. Any application for a new residence that will be constructed or placed in unincorporated areas of Brown County after November 01, 2020, must sign and record a "right to farm" agriculture easement with said property in the Register of Deeds Office as a Miscellaneous Record (MR). This would allow agricultural operations to continue as normal to perform without complaint of dust, dirt, smell, noise or lights that are generated by Best Management Practices (BMP) from SD DENR.
4. Railroad track right-of-way, turn-a-rounds, side rails, off-rails, links, loop tracks;
5. Special Permitted Uses: not available.

4.0603 Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the Agriculture Preservation District:

1. Roadside produce stands in conjunction with a bona fide farm operation on the premises; and
2. Artificial lake(s) of three acres or less.
3. Grain Bins, scales, dryers, conveyor legs, pole buildings, steel buildings, garages, calf shelters, other similar structures.
4. Seasonal Fireworks Stands (11-01-20 effective)
  - a. Permit required operating on-site; Prerequisites to obtaining a Permit are:
    - I. proof of insurance,
    - II. State licensing documents,
    - III. Notification of rural fire department & their signature to a document.

4.0604 ~~Special Exceptions/~~Conditional Uses. After notice and appropriate safeguards, the Zoning Board of Adjustment (BOA) may permit the following as ~~special exceptions/~~ Conditional Use in the Agricultural Preservation District (AG-P):

1. Home occupation; Hunting Lodges; Bed and Breakfast establishments.
2. Fairgrounds, racetracks, and amusement parks;
3. Utility substations; Communication Towers and Facilities; Wind Energy Conservation Systems;
4. Airports/Heliport;
5. Golf courses, country clubs and golf driving ranges;

6. Amphitheaters, stadiums, drive-in movies, arenas, and field houses;
7. Go-cart tracts, riding stables, playfields, athletic fields, bowling, swimming pools, and automobile parking;
8. Public parks, public recreational areas, churches, and schools;
9. Commercial feedlots;
10. Operation and maintenance terminal for trucks and other equipment;
11. Sand, gravel, or quarry operation, yet not including mineral extraction as defined in Chapter 4.01, 4.0102.
12. Sanitary landfill sites in accordance with South Dakota Environmental Protection Agency regulations;
13. Cemeteries;
14. Kennels and veterinary operations;
15. Farm related bulk commodities;
16. Farm related agriculture business or agriculture processing;
17. Wildlife propagation and game management;
18. High voltage lines of 343 KV or greater;
19. Mineral exploration provided the following conditions are met:
  - A. The applicant shall provide:
    - 1) A description of the mineral or minerals which are the subject of the exploration;
    - 2) Maps showing the general area within which the exploration operation will be conducted; and
    - 3) A detailed description of the County's environmental conditions, to include surface, land use, and vegetation as well as a detailed description of the area's geologic formations and hydrology from the best available scientific resources.
  - B. The applicant shall provide:
    - 1) Maps indicating the location of the drill sites to the nearest quarter section of land, a technical description of the exploration process, the types of equipment to be used, and the estimated timetable for each phase of work and for final completion of the program.
  - C. The applicant shall provide:
    - 1) A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed exploration; and
    - 2) A description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the area's ecological balance, and any other related hazard to public health and safety.
  - D. The applicant shall provide for reclamation of the land to its original condition after exploration is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands explored and adjacent lands. The reclamation shall include:
    - 1) A reclamation schedule;
    - 2) Methods of plugging drill holes;
    - 3) Methods of severing and returning topsoil and subsoil;
    - 4) Methods of grading, backfilling, and contouring of exploration sites and access roads;
    - 5) Methods of waste management and disposal, including liquid and solid wastes; and
    - 6) Method of revegetation.

The applicant shall identify specific phases when monitoring; and inspection of the exploration activities shall be conducted by County, State, Federal, or independent personnel to assure compliance with all applicable rules and regulations. If the conditional use permit is granted, the permit shall identify such inspection agency; and it shall be the responsibility of the applicant to

notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Commissioners.

7) A special exception/Conditional Use permit; shall be issued only after all conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of exploration activities.

20. Concentrated Animal Feeding Operations - refer to Chapter 4.32 for standards.
21. Greenhouses, nurseries and tree farms provided there is no retail sale of products conducted on the premises.
22. Shooting/Hunting Preserve.

4.0605 Minimum Lot Requirements. The minimum lot frontage width shall be two hundred (200) feet. The minimum area for any plot, piece, or area of land of contiguous assemblage as established by survey, plot, or deed shall contain an area of not less than forty (40) acres. (Ordinance. 088 amendment)

1. The Planning/Zoning Commission - Zoning Board of Adjustment (BOA) may reduce the required land area following the procedures of a Variance to Lot Size (4.2403), providing that:
  - A. The use of the land is for agricultural purposes and that the construction of buildings is confined to the shelter of grain, livestock or agricultural equipment.
2. The minimum area for any residence(s) shall consist of a piece, plot, or deed, occupied or to be occupied by (a) residential dwelling(s) and shall contain an area of not less than forty (40) acres unless:
  - A. If to be occupied by other members of the farm unit (see Definitions), the Planning/Zoning Commission-Zoning Board of Adjustment (BOA) may reduce the required area following the procedures of a Variance to Lot Size (4.2403), providing that:
    - (1) The minimum lot frontage width shall be two hundred (200) feet.
    - (2) The minimum lot area, not including right-of-way, shall be:
      - a. 2-1/2 acres without a central sewer system or public water supply; or,
      - b. 1 acre with a central sewer system or a public water supply  
(200' x 545' = 2-1/2 acres minimum; 200' x 218' = 1 acre minimum)
  - B. When a residence is to be sited on an abandoned or existing building farm site (see Definitions), the Planning/Zoning Commission-Zoning Board of Adjustment (BOA) may reduce the required area following the procedures of a Variance to Lot Size (4.2403), providing that:
    - (1) The parcel shall be platted using the minimum lot size requirements in item 4.0605-2A.

#### 4.0606 Minimum Setback Requirements.

1. All structures shall be set back not less than one hundred (100) feet from all improved public roads measured from road right-of-way.
2. The minimum side yard and rear yard setback shall each be twenty (20) feet.

#### 4.0607 Minimum Shelterbelt Setback.

1. Shelterbelts consisting of one or more rows of trees when parallel to the right-of-way along all Brown County Highways (jurisdiction of Br Co Highway Department) shall be set back a minimum of one hundred fifty (150) feet from the ~~right-of-way~~ section line. Variance (4.2403) applications for minimum setback distances shall be submitted to the Zoning Department for the next scheduled monthly meeting of the Zoning Board of Adjustments.
2. Field belts consisting of one or more rows perpendicular to the right-of-way along all Brown County Highways (jurisdiction of Br Co Highway Department) shall be set back a minimum of one hundred fifty (150) feet from the ~~right-of-way~~ section line. Variance (4.2403) requests to minimum setback distances shall be submitted to Zoning Commission / Zoning Board of Adjustments (BOA).
3. Shelterbelts and field belts along Township roads and statutory right-of-way section lines will also be required to meet the above setback distance requirements. If Variances to setback distances are requested, the applicant shall work with the Township Supervisors for “best placement” requirements. The Township shall take into consideration, the bus routes, mail routes, winter maintenance schedules and low/no maintenance areas and areas that might be having improvements for future development. Townships may refer any Variance request for minimum setback distances of shelterbelts and field belts to the Zoning Department for the next scheduled monthly meeting of the Zoning Board of Adjustments (BOA).
4. Replacement trees for existing damaged, diseased or dead trees in existing shelterbelts and field belts are exempt from minimum shelterbelt requirements as long as its nonconformance of the most current ordinance is not increased. The intent is for the replacement of failing individual trees in existing shelterbelts, not for replacing entire shelterbelts.
5. Shelterbelts or field belts that are bulldozed over or removed will be treated as new tree belts and are required to meet most current regulations unless a Variance (4.2403) procedure is approved.

#### 4.0608 Approaches.

1. Along all Federal Highways and State Highways, approach applications shall be submitted to the SD DOT. The SD DOT typically requires a one thousand (1000) foot separation for approaches.
2. Along all Brown County roads, Highways (jurisdiction of Br Co Highway Department), applications for new approaches and alterations to existing approaches shall be filled out and submitted to the Zoning Department. The Zoning Department will design and draw location on plat map to communicate with the BC Highway Department for safety review, culvert size, culvert requirement and approach placement. Any request for Variance (4.2403) to separation distances will be submitted to the Zoning Commission / Zoning Board of Adjustments (BOA). Approaches shall be a minimum of five hundred (500) feet apart. Each side of the road shall be included in separation distance calculations.
3. Along all Township roads and statutory right-of-way section lines, approaches shall also be a minimum of five hundred (500) feet apart. Each side of the road shall be included in separation distance calculations. Any variance request to separation distance for approaches along township roads shall be at the discretion of the Township Supervisor’s. Township

Supervisors are aware of the bus routes, mail routes, winter maintenance schedules and low/no maintenance areas for a variance determination. Any Townships may refer any variance request for approach separation distances to the Zoning Department for the next scheduled monthly meeting of the Zoning Board of Adjustments (BOA).

4.0609 ~~Rezoning of Property.~~

1. ~~That the portion within the limits of Brown County, heretofore zoned Rural Urban (RU) by Title 4, Chapter 4.11 of the Revised Brown County Ordinances, as amended, to wit: **South 435' of West 500' of the Southwest Quarter (SW 1/4) of Section 2, Township T127N, Range 63W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Agriculture Preservation (AG-P) to be used in accordance with Title 4, Chapter 4.06 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 1/28/94).~~
  
2. ~~That the portion within the limits of Brown County, heretofore zoned Heavy Industrial District (H-I) by Title 4, Chapter 4.16 of the Revised Brown County Ordinances, to wit: **SW 1/4 of Sec 23 T123N R65W of the 5<sup>th</sup> P.M., except railroad right of way and except Lot H-1, Brown County, SD, subject to easements, reservations and restrictions of record, if any (13380 378<sup>th</sup> Ave)** be and the same is hereby changed to Agricultural Preservation (AG-P) to be used in accordance with Title 4, Chapter 4.06 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 10/30/2012).~~

## CHAPTER 4.07 MINI-AG DISTRICT (M-AG)

- 4.0701 Statement of Intent. The intent of the Mini Ag (M-AG) District is to provide an environment and area conducive to large residential lot/hobby farm endeavors while retaining a quasi-rural character.
- 4.0702 Permitted Principal Uses and Structures. The following principal uses and structures shall be permitted in the Mini-Ag District:
1. Any form of agriculture including the raising of crops, horticulture, animal husbandry, and poultry husbandry, excluding commercial feedlots; After November 01, 2020, a maximum of one (1) animal unit per 1 acre will be allowed in M-AG District for hobby farming.
  2. Single-family residence or two-family dwellings (1 - twin home, 1 - two unit townhome, 1 - two unit condo, 1 - two unit apartment) and their normal accessory buildings, excluding mobile homes;
    - A. Any application for a new residence that will be constructed or placed in rural areas of Brown County after November 01, 2020 must sign and record a "right to farm" agriculture easement with said property in the Register of Deeds office as a Miscellaneous Record (MR) before a permit may be issued for a new residence. This would allow agricultural operations to continue as normal, to perform without complaint of dust, dirt, smell, noise or lights, as generated by Best Management Practices and any approved Conditional Use in this District; and,
  3. Special Permitted Uses: not available;
  4. Railroad track right-of-way; turn-a-rounds, side rails, off-rails, links, loop tracks.
- 4.0703 Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the Mini-Ag District:
1. Roadside produce stands in conjunction with a bona fide farm operation on the premises; and
  2. Artificial lakes(s) of three (3) acres or less.
  3. Pole buildings, steel buildings, garages, calf shelters, other similar structures
- 4.0704 Special Exceptions/Conditional Uses. After notice and appropriate safeguards, the Board of Adjustment may permit the following as ~~special exceptions~~/Conditional Uses in the Mini-Ag District:
1. Home occupations; Hunting Lodges; Bed and Breakfast establishment;
  2. Fairgrounds, racetracks, and amusement parks;
  3. Utility substations; Communication Towers and Facilities; Wind Energy Conservation Systems;
  4. Airports;
  5. Golf courses, country clubs, and golf driving ranges;
  6. Amphitheaters, stadiums, drive-in movies, arenas, and field houses;
  7. Go-cart tracks, riding stables, playfields, athletic fields, bowling, swimming pools, and automobile parking;
  8. Public parks, public recreational areas, churches, and schools;
  9. Home business/office
  10. Operation and maintenance terminal for trucks and other equipment;

11. Sand, gravel, or quarry operation, yet not including mineral extraction as defined in Chapter 4.01, 4.0102;
12. Sanitary landfill sites in accordance with South Dakota Environmental Protection Agency regulation;
13. Cemeteries;
14. Kennels/Boarding establishments and Veterinary establishments;
15. Wildlife propagation and game management.

4.0705 Minimum Lot Requirement.

1. The minimum lot frontage width shall be two hundred (200) feet.  
~~The minimum lot area shall be:~~  
~~without central sewer or water — 2 1/2 acres~~  
~~with central sewer or water — 1 acre~~  
~~with central water and sewer and part of a subdivision — 1/2 acre~~
2. The minimum lot area, not including right-of-way, shall be:  
2-1/2 acres without a central sanitary sewer system or public water supply; or,  
1 acre with a central sewer system or a public water supply  
(200' x 545' = 2-1/2 acres minimum; 200' x 218' = 1 acre minimum)

4.0706 Minimum Setback Requirements.

1. All structures shall be set back not less than one hundred (100) feet along section line roads and
2. Not less than forty-five (45) feet along all others, measured from road right-of-ways lines.
3. The minimum side yard and rear yard setback shall each be ~~twenty-five (25) feet.~~ twenty (20) feet.

4.0707 Minimum Shelterbelt Setback.

1. Shelterbelts consisting of one or more rows of trees when parallel to the right-of-way along all Brown County Highways (jurisdiction of Br Co Highway Department) shall be set back a minimum of one hundred fifty (150) feet from the ~~right-of-way~~ section line. Variance (4.2403) applications for minimum setback distances shall be submitted to the Zoning Department for the next scheduled monthly meeting of the Zoning Board of Adjustments.
2. Field belts consisting of one or more rows perpendicular to the right-of-way along all Brown County Highways (jurisdiction of Br Co Highway Department) shall be set back a minimum of one hundred fifty (150) feet from the ~~right-of-way~~ section line. Variance (4.2403) requests to minimum setback distances shall be submitted to Zoning Commission / Zoning Board of Adjustments (BOA).
3. Shelterbelts and field belts along Township roads and statutory right-of-way section lines will also be required to meet the above setback distance requirements. If Variances to setback distances are requested, the applicant shall work with the Township Supervisors for “best placement” requirements. The Township shall take into consideration, the bus routes, mail routes, winter maintenance schedules and low/no maintenance areas and areas that might be having improvements for future development. Townships may refer any Variance request for minimum setback distances of shelterbelts and field belts to the Zoning Department for the next scheduled monthly meeting of the Zoning Board of Adjustments (BOA).
4. Replacement trees for existing damaged, diseased or dead trees in existing shelterbelts and field belts are exempt from minimum shelterbelt requirements as long as its nonconformance of the most current ordinance is not increased. The intent is for the replacement of failing individual trees in existing shelterbelts, not for replacing entire shelterbelts.



5. Shelterbelts or field belts that are bulldozed over or removed will be treated as new tree belts and are required to meet most current regulations unless a Variance (4.2403) procedure is approved.

4.0708 Approaches.

1. Along all Federal Highways and State Highways, approach applications shall be submitted to the SD DOT. The SD DOT typically requires a one thousand (1000) foot separation for approaches.
2. Along all **Brown** County roads, Highways (jurisdiction of Br Co Highway Department), applications for new approaches and alterations to existing approaches shall be filled out and submitted to the Zoning Department. The Zoning Department will design and draw location on plat map to communicate with the BC Highway Department for safety review, culvert size, culvert requirement and approach placement. Any request for Variance (4.2403) to separation distances will be submitted to the Zoning Commission / Zoning Board of Adjustments (BOA). Approaches shall be a minimum of five hundred (500) feet apart. Each side of the road shall be included in separation distance calculations.
3. Along all Township roads and statutory right-of-way section lines, approaches shall also be a minimum of five hundred (500) feet apart. Each side of the road shall be included in separation distance calculations. Any variance request to separation distance for approaches along township roads shall be at the discretion of the Township Supervisor's. Township Supervisors are aware of the bus routes, mail routes, winter maintenance schedules and low/no maintenance areas for a variance determination. Any Townships may refer any variance request for approach separation distances to the Zoning Department for the next scheduled monthly meeting of the Zoning Board of Adjustments (BOA).

4.0709 Service Roads. Service roads may be required at the discretion of the ~~Planning Commission~~ Planning / Zoning Commission.

~~4.0710 Rezoning of Property.~~

- ~~1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to wit: **Whitetail Meadows 1<sup>st</sup> Subdivision in NW ¼ Sec 26-T123N-R65W of 5<sup>th</sup> P.M., Brown County, South Dakota** be and the same is hereby changed to Mini-Ag District (M-Ag) to be used in accordance with Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on filed in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 8/16/2005).~~
- ~~2. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to wit: **Lots 1A, 2A, 3A and 4A Bledsoe Second Subdivision in the SW ¼ of Sec 14-T124N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota** be and the same is hereby changed to Mini-Ag District (M-Ag) to be used in accordance with Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on filed in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 1/17/2006).~~

- ~~3. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to wit: **Lots 1-8 Fischbach First Subdivision in the SE ¼ of Sec 23-122N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota** be and the same is hereby changed to Mini-Ag District (M-Ag) to be used in accordance with Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on filed in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/13/2006).~~
- ~~4. That the portion within the limits of Brown County, heretofore zoned Rural Urban District (RU) by Title 4, Chapter 4.11 of the Second Revision Brown County Ordinances, as amended, to wit: **Lots 2-5 of Block A First Addition to Stratford in the SW ¼ of Sec 4-121N-R62W of the 5<sup>th</sup> P.M., Brown County, South Dakota** be and the same is hereby changed to Mini-Ag District (M-Ag) to be used in accordance with Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on filed in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/25/2007).~~
- ~~5. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, as amended, to wit: **Legacy Development in the NE ¼ of Sec 1-123N-R65W of the 5<sup>th</sup> P.M., Brown County, South Dakota** be and the same is hereby changed to Mini-Ag District (M-Ag) to be used in accordance with Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on filed in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 2/19/2008).~~
- ~~6. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, as amended, to wit: **Plat of Fischer Richmond Lake Estates in the NE ¼ of Sec 23-124N-R65W of the 5<sup>th</sup> P.M., Brown County, South Dakota** be and the same is hereby changed to Mini-Ag District (M-Ag) to be used in accordance with Title 4, Chapter 4.07 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on filed in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 2/19/2008).~~

**CHAPTER 4.32 CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS**

4.3201 Intent. An adequate supply of healthy livestock, poultry and other animals is essential to the well-being of county citizens and the State of South Dakota. However, livestock, poultry and other animals produce manure which may, where improperly stored, transported, or disposed, negatively affect the County environment. Animal manure must be controlled where it may add to air, surface water, or land pollution. The following regulations have been adopted to provide protection against pollution caused by manure from domesticated animals. All new and proposed expansions of Concentrated Animal Feeding Operations shall comply with the regulations as outlined herein.

It is the intention of the Zoning Commission / Board of Adjustment (BOA) in the enforcement of this ordinance that when an operator of an existing Concentrated Animal Feeding Operation applies for a permit to expand to another class level, the standards that apply to the expansion will not be applied to existing structures that were built in compliance with accepted industry standards in existence at the time of the construction of such facilities. A ~~special-exception/~~ Conditional Use can be issued, as per Chapter 4.0604 - Agricultural Preservation (AG-P) - ~~Special Exception/~~ Conditional Use. Refer to Chapter 4.3205.10 for additional standards.

~~4.3202 Definitions:~~

~~Animal Manure. Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.~~

~~Animal Units. Animal species and number of a species required to equal 300, 1,000 and 2,000 animal units. Note that these figures relate to inventory rather than annual production. Other animal species equivalents, which are not listed will be based on species' waste production.~~

4.3202 Animal species and number of a species required to equal Class A thru D animal units (AU). Note that these figures relate to inventory rather than annual production. Other animal species equivalents, which are not listed, will be based on species' waste production. An animal unit is defined as an animal equivalent of 1000 pound live weight and equates to 1000 head of beef cattle, 700 dairy cows, 2500 swine weighing more than 55 lbs, 125 thousand broiler chickens, or 82 thousand laying hens or pullets.

ANIMAL SPECIES	EQUIVALENT NUMBER OF A SPECIES TO EQUAL: ANIMAL UNITS							
	CLASS A 2,000 + AU	CLASS B 1,000-1,999 AU	CLASS C 300-999 AU	CLASS D 40-299 AU	EQUIVALENT SPECIES/AU			
Feeder or Slaughter Cattle	2,000 + hd	1,000 hd	300 hd	40 hd	1.0	AU		
Mature Dairy Cattle	1,430 hd	715 hd	215 hd	29 hd	1.4	AU		
Finisher Swine (over 55 lbs)	5,000 hd	2,500 hd	750 hd	100 hd	0.4	AU		
Nursery Swine (less than 55 lbs)	20,000 hd	10,000 hd	3,000 hd	400 hd	0.1	AU		
Farrow-to-Finish (sows)	540 hd	270 hd	80 hd	11 hd	3.7	AU		
Swine Production Unit – Sows (Breeding, Gestating & Farrowing)	4,260 hd	2,130 hd	640 hd	85 hd	0.47	AU		

Horses	1,000 hd	500 hd	150 hd	20 hd	2.0 AU
Sheep	20,000 hd	10,000 hd	3,000 hd	400 hd	0.1 AU
Turkeys	110,000hd	55,000 hd	16,500 hd	2,222 hd	0.018 AU
Laying Hens and Broilers (Continuous overflow watering in facility)	200,000hd	100,000hd	30,000 hd	4,000 hd	0.01 AU
Laying Hens and Broilers (liquid handling system in confinement facility)	60,000 hd	30,000 hd	9,000 hd	1,212 hd	0.033 AU
Ducks	10,000 hd	5,000 hd	1,500 hd	200 hd	0.2 AU

~~Applicant. An individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.~~

~~Change in Operation. "Change in operation" means a cumulative expansion of more than 300 animal units, after December 18, 1997 which are confined at an existing unpermitted Concentrated Animal Feeding Operation.~~

~~Farm Dwelling. Any dwelling owned or occupied by the farm owners, operators, tenants, or seasonal or year round hired workers.~~

~~Non Farm Dwelling. Any occupied dwelling which is not a farm dwelling.~~

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

~~Potential Pollution Hazard. A Concentrated Animal Feeding Operation of 0-300 Animal Units may be classified as a Class E Operation by the County Zoning Officer when a Potential Pollution Hazard exists. Factors to be considered by the Zoning Officer in determining a Potential Pollution Hazard include the following:~~

- ~~1. The Concentrated Animal Feeding Operation does not meet the minimum setback and separation distances of these regulations.~~
- ~~2. A Potential Water Pollution Hazard exists due to sitting ~~over~~ near a shallow aquifer or drainage, which contributes to the waters of the State.~~

~~Process Generated Wastewater. Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from water systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.~~

~~Process Wastewater. "Process wastewater" means any process generated wastewater and any precipitation (rain or snow) that comes into contact with animals, manure, litter or bedding, feed or other portions of the animal feeding operation. The term includes runoff from an open lot.~~

~~Shall. "Shall" means that the condition is an enforceable requirement of this permit.~~

~~Shallow Aquifer. An aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.~~

~~Shallow Well. A well which is located in a shallow aquifer.~~

~~Should. "Should" means that the condition is a recommendation. If violations of the permit occur, the County will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.~~

~~Significant Contributor of Pollution. To determine if a Concentrated Animal Feeding Operation meets this definition, the following factors are considered:~~

- ~~1. Size of feeding operation and amount of manure reaching waters of the state;~~
- ~~2. Location of the feeding operation in relation to waters of the state;~~
- ~~3. Means of conveyance of manure and process wastewater into waters of the state;~~
- ~~4. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewater into waters of the state.~~

~~Water of the State. "Water of the State" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.~~

~~Zone A. Special Flood Hazard Areas without a detailed study subject to inundation by the 100-year flood.~~

~~Zone AE. Special Flood Hazard Areas with a detailed study subject to inundation by the 100-year flood~~

~~Zone X shaded. These areas have been identified in the community flood insurance study as areas of moderate or minimal hazard from the principal source of flood in the area.~~

~~Zone X. These areas have been identified in the community flood insurance study as areas of no hazard from the principal source of flood in the area~~

- 4.3203 Classes of Concentrated Animal Feeding Operations (CAFO). A Concentrated Animal Feeding Operation (CAFO) is defined as a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 180 days or more during any 12-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility. Two or more animal feeding operations under common ownership are a single animal operation if they adjoin each other, or if they use a common area, or a common system for disposal of manure.

For the purpose of these regulations, Concentrated Animal Feeding Operations (CAFO) is divided into the following classes:

#### ANIMAL UNITS

CLASS A	2,000 or more
CLASS B	1,000 to 1,999
CLASS C	300 to 999
CLASS D	<del>40 to 299</del> 0 to 300 (Potential water-poll hazard)
CLASS E	0 to 300 (No pollution hazard)

4.3204 Concentrated Animal Feeding Operation (CAFO) Permit Requirements. Owner of Class A, Class B, Class C, and Class D Concentrated Animal Feeding Operations (CAFO) are required to complete a permit application whenever any of the following occur:

1. A new Concentrated Animal Feeding Operation is proposed where one does not exist.
2. An expansion is proposed beyond what a current permit allows.
3. A cumulative expansion by ~~300~~ 500 animal units, ~~after December 18, 1997,~~ November 01, 2020 ~~of~~ for an existing Concentrated Animal Feeding Operation that does not have a permit.
4. If a livestock operation with a DENR construction permit or a Brown County Zoning permit is sold, the new owner is subject to all the terms and conditions of the permit for the same operation. The DENR and Brown County Zoning Board of Adjustments (BOA) must be notified of the transfer by the current permit holder and the new permit holder within 30 days of the transfer. The new permit holder ~~may need to~~ shall supply the information to modify the permit to reflect the new ownership to the Brown County Zoning Board of Adjustments (BOA) ~~(if the DENR or Brown County Zoning board requests)~~. A person who is a habitual violator or has a pending enforcement action may not purchase a confinement operation with a ~~DENR or~~ Brown County Zoning Board permit.
5. An existing Concentrated Animal Feeding Operation (CAFO) is to be restocked after being idle for ~~five (5) or more years~~ more than two (2) years.
6. A signed complaint has been received by the Brown County Zoning Officer or South Dakota Department of Environment and Natural Resources and after inspection reveals that the Concentrated Animal Feeding Operation (CAFO) is in violation of County or State regulations.

4.3205 Concentrated Animal Feeding Operation Control Requirements.

#### 1. No Significant Contribution of Pollution

In general, no Concentrated Animal Feeding Operation (CAFO) shall be constructed, located or operated so as to create a significant contribution of pollution.

#### 2. State General Permit

Classes A and B Concentrated Animal Feeding Operations (CAFO) shall obtain a State General Permit pertaining to the animal species of the Concentrated Animal Feeding Operation (CAFO). A County permit may be approved conditioned on receiving an approved State permit.

Classes C and D Concentrated Animal Feeding Operations (CAFO) will be required to obtain a State General Permit if either of the following occur:

- a. If an earthen storage basin or lagoon is used for manure storage.
- b. The Zoning Board of Adjustment (BOA) decides conditions of a State permit.

### 3. Nutrient Management Plan

Classes A, B & C, Concentrated Animal Feeding Operations shall submit a Nutrient Management Plan to the State. Classes A, B, C, and D Concentrated Animal Feeding Operations shall submit a Nutrient Management Plan to the County. The applicant shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water. The South Dakota Department of Environment & Natural Resources must approve the plan prior to land application of any wastes. Due to crop rotation, site changes, and other operational changes, the producer should update the plan annually to reflect the current operation and crops grown on the application sites. The applicant shall collect, store, and dispose of liquid and solid manure according to recognized practices of good agricultural management. The economic benefits derived from agricultural operations carried out at the land disposal site are secondary to the proper and safe disposal of manure.

A generic nutrient management plan that the applicant may use in developing a nutrient management plan is available from the South Dakota Department of Environment & Resources and may be used for Class C & D Concentrated Animal Feeding Operations. The generic nutrient management plan is based on application of nitrogen. The applicant may use other plans, provided the alternate plan contains all the information necessary to determine compliance with conditions of this general permit. Nitrogen, in addition to that allowed in the nutrient management plan, may be applied up to the amounts as indicated by soil or crop nitrogen test results that are necessary to obtain the realistic crop yield.

The South Dakota Department of Environment & Natural Resources recommends and encourages producers to develop nutrient management plans for other nutrients such as phosphorous and potassium. Over application of these nutrients may lead to water quality problems in area lakes and streams and result in potential damage to the producer's land and crop.

The applicant must maintain records to show compliance with the plan.

The plan must comply with the County Manure Application Setbacks as shown in 4.3205 #10.

Land spreading agreements shall be provided if applicant does not have minimum acreage to apply animal manure. ~~Animal manure shall be applied within five miles of the Concentrated Animal Feeding Operation.~~

### 4. Manure Management and Operation Plan

Classes A and B Concentrated Animal Feeding Operations shall submit a Manure Management Plan, and an Operation Plan and approval from SD DENR.

A. Plan must include:

- (1) The location and specifics of proposed animal manure facilities.
- (2) The operation procedures and maintenance of manure facilities.
- (3) Plans and specifications must be prepared or approved by a registered professional engineer, or a South Dakota licensed Natural Resource Conservation Service (NRCS) engineer. Waste treatment facilities will require inspection by an engineer and as-built plans to be submitted to the County Zoning Officer.
- (4) Animal manure shall not be stored longer than two years.
- (5) Manure containment structures shall provide for a minimum design volume of 270 days of storage.
- (6) Producers shall keep records of manure applications on individual fields, which document acceptable manure and nutrient management practices have been followed. These records shall include soils test results for surface two feet of soil, actual and projected crop yields, nutrient analysis of manure, and information about date, rate and method of manure applications for individual fields.
- ~~(7) Manure transportation plan; manure transportation is limited to five miles from the place of origin.~~

B. As a condition of the permit, the County Board of Adjustment (BOA) may require the producer to participate in environmental training programs and become a certified livestock manager.

C. The Board of Adjustment (BOA) may require manure to be injected or incorporated into the soil.

5. Management Plan for Fly and Odor Control

Classes A, B, C, and D Concentrated Animal Feeding Operations shall dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. A management plan is required for submission of a permit. The County Board of Adjustment (BOA) will review the need for control measures on site specific basis, taking in consideration prevailing wind direction and topography. The following procedures to control flies and odors should be considered in a management control plan.

A. Operational plans for manure collection, storage treatment and use must be kept updated and implemented.

B. Methods to be utilized to dispose of dead animals should be included in the management plan.



- C. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds and/or lagoons.
- D. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
- E. Store solid manure in containment areas having good drainage to minimize odor production.
- F. Remove manure from open pens as frequently as possible to minimize odor production.
- G. Consider use of covers on open storage systems for liquid manure systems to reduce odor production.
- H. Avoid applying manure on weekends, holidays, and evenings during warm season when neighbors may be involved in outdoor recreation activities.
- I. Avoid surface application when allowable during calm and humid days, since these conditions restrict the dispersion and dilution of odors.
- J. Incorporation of manure must occur within 24 hours of open air spreading.

6. Required Setbacks (defined as radius) and Separation Distance for new Concentrated Animal Feeding Operations (CAFO) and those expanding by 300 or More Animal Units after ~~December 18, 1997~~ November 01, 2020.

	<u>MINIMUMS SETBACKS</u>			
	CLASS A	CLASS B	CLASS C	CLASS D <del>&amp; E</del> <u>1320</u>
Established Residences not including owners/operators	3,960 feet*	2,640 feet	2,640 feet	<del>2,640</del> feet
Churches, Businesses and Commercially Zoned Areas	5,280 feet*	5,280 feet	2,640 feet	2,640 feet
Incorporated Municipality	3 miles	2 miles	5,280 feet	2,640 feet
Public Water Supplies & Private Wells other than the operator	2,640 feet	1,760 feet	1,320 feet	1,320 feet
Lakes and Streams classified as Fisheries as identified by the State	500 feet	500 feet	200 feet	200 feet
Federal, State & County Road ROW Housed <u>Feeding</u>	300 feet	300 feet	200 feet	200 feet
Federal, State & County Road ROW Open Lot <u>Feeding</u>	300 feet	300 feet	200 feet	200 feet
Township Road ROW Housed	150 feet	150 feet	150 feet	150 feet
Township Road ROW Open Lot	150 feet	150 feet	150 feet	150 feet

Designated 100 Year Floodplain      Prohibited      Prohibited      Prohibited      Prohibited

\* Plus 1,000 feet for each additional 1,000 Animal Units (AU)

Proposals for new Concentrated Animal Feeding Operations (CAFO), ~~on a site-by-site basis~~, shall be set back from adjoining property lines as determined by the ~~County~~ Board of Adjustment (BOA) for each application on a site-by-site basis.

#### 7. Exemptions from Separation Distance

- A. If a Concentrated Animal Feeding Operation (CAFO) is closer than the separation distances provided in these regulations, the applicant ~~can~~ shall request a written waiver ~~from owners of neighboring properties that are closer than the minimum from the separation distance required in this section.~~ The residence, business, church, school, municipality, or public use area may waive the distance requirement and sign a waiver. The waiver ~~is~~ shall be notarized and recorded in the Brown County Register of Deeds Office as a Miscellaneous Record (MR) with the “waived” property and with the “CAFO” property. ~~with the County Register of Deeds in order~~ This recording shall transfer with a change of ownership so that any other future owners ~~can~~ will be informed.
- B. Concentrated Animal Feeding Operation (CAFO) expansion of 300 animal units or more ~~can~~ may apply to ~~the County~~ Board of Adjustment (BOA) for a variance to the required setback and separation distance regulations on a site by site basis.

#### 8. New Residences

- A. Anyone establishing a new residence in the County near an existing CAFO, must comply with the minimum setbacks as stated in Section 6, Established Residences, upon determining the class of the concentrated animal feeding operation where the new residence will be located. The owner shall also sign a waiver if it is within the setback boundaries, have it notarized and filed at the Register of Deeds Office as a miscellaneous record (MR).

#### 9. Floodplain Zones.

The following uses are prohibited in Zone A or Zone AE:

- (1) New Concentrated Animal Feeding Operations after adoption of this ordinance.
- (2) Existing Concentrated Animal Feeding Operations will not be able to expand beyond a total of 300 animal units.
- (3) Earthen storage basins and lagoons.
- (4) Stockpiling of solid waste.

The following uses are prohibited in Zone X-shaded:

- (1) New and expansion of Class A and B Concentrated Animal Feeding Operations.

- (2) Earthen storage basins and lagoons.

The following uses are allowed in Zone X-shaded by ~~Special Exception~~ a Conditional Use:

- (1) New Class D and expansion of existing Class D up to 999 animal units (Class C).  
The County may require soil borings to determine impermeable material between land surface and the aquifer.

Each application for a new or expanded Concentrated Animal Feeding Operation (CAFO) will be reviewed by the Board of Adjustment (BOA) on a site specific basis. The Board of Adjustment (BOA) reserves the right to increase the minimum required setbacks and separation distance on a site specific review, based on one or more of the following considerations.

- A. A Concentration of CAFOs in the area exists or would occur which may pose an air or water quality concern.
- B. Due to topography and prevailing wind direction, additional setback and separation distance is appropriate to safeguard air or water quality.
- C. A Concentrated Animal Feeding Operation (CAFO) is in excess of 5,000 animal units.

9.10. Manure Application Setbacks

- A. The following manure application setbacks apply to all classes of Concentrated Animal Feeding Operations (CAFO).

COUNTY MANURE APPLICATION SETBACKS

<u>CATEGORY</u>	<u>SURFACE OR IRRIGATION APPLIED</u>	<u>INCORPORATED OR INJECTED</u>
Lakes, Rivers and Streams Classified as Fisheries from high water mark	1,000 feet	100 feet (lake) 50 feet (river & stream)
Streams and Lake classified as Drinking Water Supplies	1,000 feet	300 feet
Public Roads	25 feet (surface) from right-of-way 300 feet (irrigation)	10 feet from right-of-way
Area of 10 or more Residences	300 feet (surface) 1,000 feet (irrigation)	300 feet
Public Wells	1,000 feet	1,000 feet
Private Shallow Wells	1,000 feet	250 feet
A Residence other than the Operator	1,000 feet	300 feet
Natural or Manmade Drainage	500 feet	50 feet

- B. The County Board of Adjustment (BOA) may require liquid manure to be incorporated or injected in order to minimize air and water quality impacts.
- C. Requests for application of liquid manure by means of irrigation will be reviewed by the Board of Adjustment (BOA) on a site-specific basis. Impact on air and water quality will be taken into consideration.

~~10~~11. Standards for ~~Special Exceptions~~ / Conditional Uses

- A. The County Board of Adjustment (BOA) may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.
- B. The ~~County~~ Board of Adjustment (BOA) may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the Board of Adjustment (BOA) considers necessary to protect the public health, safety and welfare.
- C. ~~Special Exceptions~~ Conditional Uses shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are being adhered to.
- D. When considering an application, the ~~County~~ Board of Adjustment (BOA) will take into consideration current and past violations relating to Concentrated Animal Feeding Operations that the applicant has an interest in.
- E. Permit applicants will be required to file a letter of assurances as required by the Board of Adjustment (BOA). The letter of assurances will be prepared by the zoning officer and signed by both the applicant and the zoning officer.
- F. A neighboring township that adjoins between two counties will follow the regulations of the county that is most restrictive.
- G. An applicant's record on environmental issues, employment, and labor compliance must be submitted with the application. If the ~~County~~ Planning - Zoning Commission - Zoning Board of Adjustments (BOA) finds the person is a "bad actor" then the applicant will be denied a permit.

~~11~~12. Facility Road Maintenance Agreements

All facilities within Brown County that cause excessive maintenance of County or Township roads shall be required to have a written agreement with the Township Board or Brown County Highway Superintendent, stating acceptance responsibility for all additional costs incurred by the facility in maintenance of said road. Excessive maintenance shall be defined as: All work and materials costs incurred over and above the average cost of maintaining that specific type of road within that local governmental units jurisdiction. The terms of said agreement shall be determined prior to the issuance of a ~~special exception~~ / Conditional Use permit.

~~12~~13. Information Required for Class A and B Concentrated Animal Feeding Operation Permit

- A. Owner's Name, address and telephone numbers.

- B. Legal descriptions of site and site plan.
- C. Number and type of animals.
- D. Nutrient management plan.
- E. Manure management and operation plan.
- F. Management plan for fly and odor control.
- G. Information on ability to meet designated setback requirements including site plan to scale.
- H. General permits from South Dakota Department of Environment & Natural Resources if available for animal species.
- I. Review of plans and specifications and nutrient management plan by the South Dakota Department of Environment & Natural Resources.
- J. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.
- K. Notification of whoever maintains the access road (township, county and state).
- L. Notification of public water supply officials.
- M. Any other information as contained in the application and requested by the County Zoning Officer.
- N. Written notification to landowners or tenants living within the setback area to the proposed facility, and publication of notice in official County newspaper at least once.
- O. A full written plan must be submitted at least four weeks in advance of the public hearing in the county courthouse or other location, available for public inspection.
- P. A copy of the general permit application must be submitted to the County, at the time it is submitted to State Department of Environment and Natural Resources.
- Q. A list of owner's names contracted to do manure land spreading and a legal description of the land must be submitted to the County.

**1314. Information Required for Class C and D Concentrated Animal Feeding Operational Permit**

- A. Owner's name, address and telephone number.
- B. Legal descriptions of site and site plan.
- C. Number and type of animals.
- D. Nutrient management plan.

- E. Manure management and operation plan.
- F. Management plan for fly and odor control.
- G. Information on ability to meet designated setback requirements, including site plan to scale.
- H. Review of plans and specification and nutrient management plan by the South Dakota Department of Environment & Natural Resources if using lagoon or earthen storage basin.
- I. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.
- J. Notification of whoever maintains the access road (township, county and state).
- K. Notification to public water supply officials.
- L. Any other information as contained in the application and requested by the County Zoning Officer.

## CHAPTER 5.01           GENERAL PROVISIONS

5.0101 Purpose. These regulations shall be for the purpose of implementing the Brown County Comprehensive Plan by shaping development patterns and providing for consistency in the quality of development.

5.0102 Jurisdiction. These regulations shall apply within the unincorporated areas of Brown County, South Dakota, including the incorporated municipalities of Claremont, Columbia and Stratford, yet excluding areas of joint jurisdiction ~~with Aberdeen~~, Frederick, Groton, Hecla and Warner. (Ordinance 087 amendment)

5.0103 Extent of Regulations.

1. The provisions of these regulations shall apply to every addition to, or subdivision within, any city or town listed within subchapter 5.0102, provided that if the land or any part thereof included in any such addition or subdivision is within, adjoining or contiguous to the boundaries of any city or town, listed in 5.0102 the plat thereof, before being recorded, shall be submitted to the governing body thereof, which shall thereupon examine the same, and it shall appear that the system of streets and alleys set forth therein conforms to the system of streets and alleys of the existing plat of such city or town, and that all taxes, if any, upon the tract or subdivision have been fully paid, and that such plat and the survey thereof have been executed according to law, such governing body shall approve the same, and the auditor or clerk shall endorse on such plat a certification of acceptance. No plat of any such addition or subdivision so situated shall be entitled to record or be recorded unless the same bears the acceptance certificate of the auditor or clerk.

2. Whenever any person wishes to plat any lands outside the boundaries of a municipality which are not included in 5.0103 (1), he shall be governed by and proceed in accordance with the provisions of these regulations, except that before recording his plat, he shall submit the same for review as outlined within these regulations.