

**HYDE COUNTY ORDINANCES
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Sections 1-101 to 116, inclusive. Definitions and General Provisions.

Section 1-101. Designating the legal boundaries of Hyde County, South Dakota.

All property within the boundaries of Hyde County (except areas of the county where incorporated places have exerted jurisdiction pursuant to statute).

Section 1-102. Definitions.

For the purpose of this Section certain words and terms used herein shall be defined and interpreted as follows:

All words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The words “shall” are mandatory and not directory. The word “used” shall be deemed also to include “designed, intended, or arranged to be used.”

“Accessory Buildings” are buildings other than a residential dwelling.

“Adjacent Property” shall mean all property, which is contiguous, and including property separated by a public right-of-way.

“Agribusiness Activities” Is the use of land for the following commercial purposes related to raw product processing, or storage of farm products: grain storage of over 350,000 bushels, soy bean plants, ethanol plants, processing of agriculturally-related raw products raised, grown or purchased by the landowner or operator, or like facilities.

“Agriculture” means the act or science of cultivating the ground, including the maintenance and harvesting of crops, storage of farm products: custom fertilizer/herbicide application, custom planting, custom harvesting, grain storage of under 350,000 bushels, or processing of agriculturally-related raw products raised, grown or purchased by the landowner or operator and the breeding, raising and management of livestock and poultry.

“Agricultural Building” is a building located on agricultural property and used to shelter farm implements, hay, grain, poultry, livestock, or other farm produce, in which there is no human habitation, and which is not used by the public.

“Airport” is any area of land which is used, or intended for the landing and take-off of aircraft, and any appurtenant areas which are used or intended for use as right-of-way, including taxi ways, aircraft storage and tie down areas, hangars and other related buildings and open spaces.

“Alley” is a narrow service way providing a secondary means of access to abutting properties.

“Alter or Alteration” is any change, addition or modification in construction or occupancy.

“Anaerobic Lagoon” means an impoundment used in conjunction with an animal feeding operation, if the primary function of the impoundment is to store and stabilize organic manure, the impoundment is designed to receive manure on a regular basis, and the impoundment’s design manure loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:

- a. A confinement feeding operation structure.
- b. A runoff control basin, which collects and stores only precipitation induced runoff from an open feedlot.
- c. An anaerobic treatment system, which includes collection and treatment facilities for all off gases.

“Animal Feeding Operation” is a facility that stables, confines, and feeds or maintains livestock or poultry for a total of 56 days or more in any 12-month period. The lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more animal feeding operations under common ownership are single animal feeding operation if they adjoin each other, or if they use a common area or system for the disposal of wastes.

“Animal Unit” shall mean a unit of measurement of solid and liquid waste generated by confined livestock or poultry. See Table A.

TABLE A
EQUIVALENT NUMBER OF A SPECIES TO EQUAL:

ANIMAL SPECIES	400 AU	1,000 AU	2,000 AU	ANIMAL UNIT EQUIVALENT SPECIES/AU
Feeder or Slaughter Cattle	400 HD	1,000 HD	2,000 HD	1.0
Mature Dairy Cattle	285 HD	714 HD	1,428 HD	1.4
Finisher Swine (over 55 lbs)	1,000 HD	2,500 HD	5,000 HD	0.4
Nursery Swine (less than 55 lbs)	4,000 HD	10,000 HD	20,000 HD	0.1
Farrow to Finish*	110 HD	270 HD	540 HD	3.7
Sow to Litter	375 HD	1,076 HD	2,150 HD	0.93
Horses	200 HD	500 HD	1,000 HD	2.0
Sheep	4,000 HD	10,000 HD	20,000 HD	0.1
Turkeys	22,250 HD	55,550 HD	111,150 HD	0.018
Laying Hens and Broilers (Continuous overflow watering in facility)	40,000 HD	100,000 HD	200,000 HD	0.01
Laying Hens and Broilers (Liquid handling system in confinement facility)	12,000 HD	30,300 HD	60,600 HD	0.033
Ducks	2,000 HD	5,000 HD	10,000 HD	0.2

* Figures in the furrow to finish column include sows, pigs born and fed to market weight at one site, at one time.

“Apartment” shall mean a dwelling unit as defined in this ordinance.

“Apartment House” is any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

“Applicant” is 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.

“Assisted Living Center” is any institution, rest home, boarding home, place, building, or agency which is maintained and operated to provide personal care and services which meet some need beyond basic provision of food, shelter, and laundry in a free-standing, physically separate facility which is not otherwise required to be licensed under SDCL 34-12-1.

“Auto Wrecking” is the collecting, burning out, dismantling or wrecking of used motor vehicles, wheeled or track laying equipment, or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles, wheeled or trailers or their parts. The dismantling and rebuilding other than custom repair, of more than one motor vehicle, piece of wheeled or track laying equipment, or trailer at a time even though not for profit or a principal use of a parcel of land shall be defined as auto wrecking. The storage of a partially dismantled motor vehicle, piece of wheeled or track laying equipment or trailer shall be considered auto wrecking.

“Basement” is that portion of a building between floor and ceiling, which is partly below and partly above grade.

“Best Management Practices (BMP)” means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP’s also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, waste or manure stockpiles, or drainage from raw material storage.

“Billboard” is any structure or portion thereof, situated on private premises, on which lettered, figured or pictorial matter is displayed for advertising purposes, except the name and occupation of the user of the premises, the nature of the business conducted on the premises or the products primarily sold or manufactured on the premises and having an area of 100 square feet or more. Any signboard carrying a message expected in this definition, which also carries extraneous advertising of 100 square feet or more, shall be considered a billboard. This definition shall not include any board, sign or surface used to display any official notices issued by a court or public duty, or bulletin boards used to display announcement of meetings to be held on the premises on which such bulletin boards are located, nor shall it include a real estate sign advertising for sale or rent the property upon which it stands when such sign does not exceed 100 square feet.

“Block” means an area of land within an addition or subdivision that is entirely bounded by streets, streets and the exterior boundary or boundaries of the addition or subdivision, railroad rights-of-way, or a combination of the above with a river or lake.

“Board or Board of Adjustment” is the board of adjustment of the County of Hyde, South Dakota.

“Building” is any structure for the support, shelter, enclosure of persons, animals, chattels, or property of any kind.

“Building Accessory” is any subordinate building or structure, the use of which is incidental to the principal building on the same lot, including, but not limited to:

- A. Private Garages, Car Ports, Sheds and Agricultural Buildings; and,
- B. Tanks and Towers.

“Building, Existing” is a building erected prior to the adoption of this chapter or one for which a legal building permit has been issued.

“Building, Principal” is a building in which is conducted the primary use of the site on which it is situated. In any residential district any dwelling shall be deemed to be the principal building of the site on which it is located.

“Certificate of Occupancy” is a permit issued by the Zoning Administrator whereby the building permittee affirms that the use of the building or land in question is in conformity with this ordinance or that there has been a legal variance there from as provided by said ordinance.

“Clinic, Medical” is a building or portion of a building containing the offices and associated facilities of one or more practitioners providing medical, dental, psychiatric, osteopathic, chiropractor, physical therapy or similar services for out-patients only, with or without share or common spaces and equipment. A common area pharmacy or drug dispensary available to persons other than patients being treated therein or making charges separate from bills for professional services of said practitioners shall not be considered as a medical clinic use.

“Club” shall include clubhouse and shall mean a voluntary association of persons organized for cultural, recreational, fraternal, civic, charitable or similar purpose, but shall not include an organization or premises, the chief activity of which is a service or activity customarily carried on as a business even though it may be chartered and named for purposes herein defining a club.

“Commercial Use” is the use of any land or building designed for commercial purposes, which shall include the use of land or buildings used for retail sales and offices.

“Communication Tower” – a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed, or on a building.

“Concentrated Animal Feeding Operation (CAFO)” - A CAFO is an animal feeding operation with more than 1000 animal units (an animal unit is defined as an animal equivalent of 1000 pounds 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) confined on site for more than 45 days during the year.

“Conditional Use” is a use which is not allowed in the district as a matter of right, but which is permitted upon findings of the board that under the particular circumstances present, such use is in harmony with the principal permitted uses of the district. Allowable conditional uses are specifically listed under the district regulations. Uses not so listed shall not be allowed as conditional uses.

“Confinement Feeding Operation” means a totally roofed animal feeding or dairy operation in which wastes are stored or removed as a liquid or semi-liquid.

“Country Club” for the purpose of this ordinance shall include golf course, par-3 golf courses, swimming pools, tennis clubs and neighborhood clubhouses any and each of which shall be located on a site of not less than one acre and open only to membership subscribing for the use of all facilities for a term of not less than one year and members non-paying guests. Sleeping facilities other than quarters for one caretaker or manager and his family shall be prohibited. Clubs operated exclusively as restaurants, cocktail lounges, card rooms, beer taverns, bowling alleys, pool and billiard parlors and similar activities normally carried on as business shall be excluded from the definition of a country club. Nothing herein shall be construed to limit the method of operation of such facilities enumerated in this definition when owned or operated by a governmental agency.

“County Commission” is the Hyde County Commission.

“Court” is a space, open and unobstructed to the sky, located at or above grade level on a lot and bound on three or more sides by walls or a building.

“Coverage” is the percentage of lot area covered by buildings.

“Disclosure Statement” is a statement to be certified on all plats in rural Hyde County designating the current zoning of the property and the use of all adjacent property.

“Domestic Animal” is any animal that through long association with man has been bred to a degree, which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches, such as cattle, horses, hogs, sheep and poultry.

“Dwelling” is a building or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, multi-family dwellings and group dwellings; provided however that the following are not dwellings:

- A. Hotels, motels, tourist courts, cabins and hunting camps;
- B. In a building that contains one or more dwelling units or lodging rooms in addition to one or more non-residential uses, the portion of such building that is devoted to such residential uses, except when accessory to the residential uses; and,
- C. Used for the institutional care of people such as hospitals, rest homes, orphanages, and homes for the aged.

“Dwelling - Multiple Family” is a building or portion thereof accommodating three or more families living independently of each other.

“Dwelling - Single Family” is a building containing one dwelling unit only.

“Dwelling - Two Family” is a building containing two dwelling units only.

“Dwelling - Unit” is one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking, and eating.

“Dwelling - Mobile” is a vehicle used or so constructed as to permit its being used as a conveyance upon a public street or highway and duly licensable as such, and shall include self-propelled vehicles so designed, constructed, reconstructed, or added to by means, in such manner as will permit the occupancy thereof as a dwelling or sleeping place of one or more persons and supported by wheels, jacks, or similar supports. Transportable dwellings not meeting building code requirements for dwellings shall be treated as mobile dwellings.

“Established Dwelling” is any residence established by a personal presence in a fixed and permanent dwelling having occupied such dwelling for at least fifty percent (50%) of the previous two (2) years.

“Family” is an individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

“Farm” means any parcel of land containing at least Twenty (20) acres of land together with fields, buildings, farm implements, animals and personnel for the intended purpose of producing crops or raising livestock as a principal source of income for the residents or owner.

“Farmer” means one whose occupation is farming.

“Farm, Hobby” means a parcel of land together with fields, buildings, animals and implements, the residents of which may raise crops, livestock or fowl primarily for pleasure or a pastime, which does not generate a principal source of income for those residents.

“Farming,” means the occupation of producing crops or raising livestock on a farm.

“Feedlot, Commercial” means a place where the principal business is the feeding, raising or holding of livestock in a confined area which is not subordinate to the production of crops on the premises. Under normal operating conditions, the livestock held are fattened by feed, which is produced off the site.

“Feedlot, Farm” means a place where there is feeding, raising or holding of livestock in a confined area as a subordinate use to the raising of crops upon the premises. Under normal growing conditions the crops produced upon the premises constitute the main source of feed for the livestock being held.

“Feedlot Operator” means 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.

“Filling Station” is any area of land, including structures thereon designed or used for the retail sale of motor vehicle fuel.

“Flammable Liquids” shall mean any liquid having a flash point below 200⁰ F and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100⁰F. Flammable liquids shall be divided into three classes as follows:

- Class 1. Shall include those having flash points below 20⁰F.
- Class 2. Shall include those having flash points above 20⁰F, but at or below 70⁰F and,
- Class 3. Shall include those having flash points above 70⁰F.

“Floor Area” is the area included within the surrounding exterior walls of a building or portion thereof exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

“Formed Manure Storage Structure” means a structure, either covered or uncovered, used to store manure from a confinement feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

“Game Lodge” is a building, other than a hotel or apartment building, where for compensation and by pre-arrangement for definite periods, lodging, meals, hunting or a combination are provided for two or more persons.

“Garage” is a building or portion thereof in which a self-propelled vehicle contains gasoline, distillate or other volatile, flammable liquid in its tank, is stored, repaired, or kept.

“Garage, Private” is a building, or portion of a building, not more than twelve hundred square feet (1,200 sq. ft.) in area, designed or used for the storage of personal motor vehicles and other customary household articles which are owned and used by the occupants of the building to which it is accessory.

“General Permit” shall mean the permit issued by the State of South Dakota Department of Environment and Natural Resources (DENR) for all concentrated feeding operations.

“Golf Course” as used herein, shall mean standard sized layouts of at least nine holes and shall not include miniature golf courses, par-3 golf courses, pitch and put courses or driving ranges.

“Grade (Adjacent Ground Elevation)” is the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five (5) feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five (5) feet distant from said wall. In case walls are parallel to and within five (5) feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

“Grain Handling facility”- A facility that includes, ethanol plants, soy bean plants, small grain or row crop processing plants, or similar facilities.

“Ground Coverage” is the area of a zoning lot occupied by all buildings expressed as a percentage of the gross area of the zoning lot.

“Home Occupation - General” is a business, occupation or professional carried on within a residential dwelling by the resident thereof; and which shall have the following characteristics:

- a. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- b. There shall be no emission of smoke, dust, odor, fumes, glare, noise, vibration, electrical or electronic disturbance detectable at the zoning lot line.

- c. The activity shall employ only members of the immediate family of the resident of the dwelling.
- d. There shall not be a stock of goods on the premises in excess of 30 cubic feet in volume, none of which shall be of a flammable nature.
- e. Said home occupation shall not involve continual visits by the general public.
- f. The above listed characteristics of the at home occupation shall not be construed to restrict the sale of garden produce grown on the premises, provided this exception shall not extend to allow the operation of a commercial green house or nursery, or the existence of stands or booths for the display of produce grown on the premises.
- g. Said occupation may include the caring for not more than 12 children at one time for hire.
- h. Room or board of hire, but not for more than 2 persons.

Any business, occupation or profession the operation of which does not meet the aforesaid characteristics shall not be interpreted to be a home operation despite the fact that it may attempt to operate in a residential building.

The conducting of a barber and/or beauty shop, a clinic, a commercial stable, a commercial kennel, a tourist home, a restaurant or a tearoom, a convalescent home, a mortuary establishment or any similar use shall not be deemed to be a home occupation. Conducting associated agriculture enterprises is not designated as a home occupation.

“Hospital” is an institution in which sick or injured persons are given medical or surgical care.

“Hotel” is any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

“Housed Lot” means totally roofed buildings that may be open or completely enclosed on the sides. Animals are housed over solid concrete or dirt floors, slotted floors over pits or manure collection areas in pens, stalls or cages. Housed lot is synonymous with other industry terms such as slotted floor buildings.

“Junk or Salvage Yard” is a place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, or other used materials are bought, sold, exchanged, stored, baled, or cleaned and places or yards for the storage of salvaged metal, materials and equipment, but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks in operable condition, boats, or trailers in operable condition, salvaged machinery in operable condition, and used furniture and

household equipment in usable condition and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

“Lot” is a zoning lot unless the context shall clearly indicate a lot of record, in which case a “lot” is a lot of record.

“Lot, Corner” is a zoning lot situated at the intersection of two streets, or bounded on two or more adjacent sides by street right-of-way lines or in the case of curved right-of way lines, when the extension of tangents at the side lot lines yields an internal angle which does not exceed 135 degrees.

“Lot, Interior” is a zoning lot other than a corner lot.

“Lot, Depth of” is the mean horizontal distance between the front and rear lot lines.

“Lot Line” is a boundary of zoning lot. Lot line is synonymous with property line.

“Lot of Record” is land designated as a separate and distinct parcel in a subdivision, the plat of which has been recorded in the office of the county register of deeds of Hyde County, South Dakota, parcel of land, the deed to which was recorded in the office of said recorder prior to the adoption of this ordinance.

“Lot Width” is the distance between side lot lines measured at the rear of the required front yard on a line parallel with a line tangent to the street right-of-way line.

“Minor Repair - Automobile” is the replacement of minor assemblies or parts and tune up of automobiles, or trucks of less than 15,000 pounds gross license weight, but not including body and fender work, painting, engine overhaul or similar type of work.

“Manufactured Home” is a structure built on a chassis, off site, to be used as a dwelling with or without a permanent foundation; manufactured according to the Manufactured Home Construction and Safety Standards (HUD Code) adopted June, 15, 1976.

“Mobile Home” is a mobile dwelling not constructed to Manufactured Construction and Safety Standards (HUD Code) established June 15, 1976.

“Mobile or Manufactured Home Park” is a tract of land that is used, designed, maintained, or held out for rent to accommodate one or more mobile or manufactured homes. Mobile or manufactured homes located in a mobile home park are used to provide living and sleeping accommodations, a mobile home park does not include an automobile or mobile home sales lot on which unoccupied mobile homes or manufactured homes are parked for inspection or sale. The term mobile or manufactured home shall include mobile dwelling.

“Motel” is a group of attached or detached living units with individual toilet facilities operated for transient guests and so constructed that guests’ automobiles may be parked at or near the living unit.

“Natural Production use” is a production use, which shall be directly dependent upon the natural resources of the area; such as gravel pits, rock quarry, and areas containing natural gas.

“Non-conforming Building” is a building or structure or portion thereof, lawfully existing at the time this ordinance or an amendment thereto becomes effective, which does not meet the bulk, height, yard, parking, loading or other requirements of this ordinance or any amendment thereto.

“Non-conforming Uses” is a use which lawfully occupies a building or land at the time this ordinance or an amendment thereto becomes effective but does not meet the requirements of this ordinance or any amendment thereto.

“Occupancy” is the purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

“Occupied Structure” means any fixed or permanent structure other than an established dwelling, adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present. If a building or structure is divided into separately occupied units, any unit not occupied is an occupied structure of another. An occupied structure shall also include structures for the purpose of storing goods, livestock, and similar purposes.

“Open Feedlot” is an un-roofed or partially roofed animal feeding operation in which no crops, vegetation, forage growth or post-harvest residues are maintained during the period that animals are confined in the operation.

“Open Lot” means pens or similar confinement areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Open lot is synonymous with other industry terms such as pasture lot, dirt lot or dry lot.

“Open Space” is all area including off-street parking spaces not covered by buildings or structures.

“Parking Space Off-Street” is an off street space available for the parking of one motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of driveways and having direct access to a street or alley.

“Planning Commission” is the Hyde County Planning and Zoning Commission appointed by the county commission and serves as the Hyde County Zoning Board.

“Principal Permitted Use” is that use of a zoning lot, which is among the uses allowed as a matter of right as the exclusive use of a lot under the zoning classification.

“Repair” is the reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word “Repair” or “Repairs” shall not apply to any change of construction.

“Residential Use” is use of land or buildings designed for residential purpose which shall include such land or buildings used for one or two-family residency, apartment houses and multiple family dwellings.

“Rooming House or Lodging House” is any building or portion thereof, containing not more than five guest rooms which are used by not more than five guests where rent is paid in money, goods, labor or otherwise. A lodging house shall comply with all the requirements of this ordinance for dwellings.

“Setback” is the minimum horizontal distance between the property line and building.

“Shooting Preserve” is an 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.

“Shelterbelt” is two or more rows of trees, such rows being greater than one hundred (100) feet in length, with tree trunk spacing at planting of less than twenty five (25) feet. Ornamental trees or plantings are not deemed shelterbelts; however, ornamental trees, single trees, greater than twenty-five (25) feet apart and in rows of less than one hundred (100) feet in length, may be planted as long as they are fifty (50) feet from the edge of the right of way.

“Sign” is any device, which directs attention to business, commodity, service or entertainment but not including any flag, badge, or insignia or any government agency, or any civic, charitable, religious, patriotic or similar organizations.

“Stable - Private” is an accessory building in which all of the animals housed are the property of the owner or lessee or of his immediate family.

“Stable - Public” is a building in which any animals are kept for remuneration, hire or sale.

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

“Story - Half” is a story under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the finished floor of such story.

“Street” is any thoroughfare of public space not less than thirty feet (30 ft.) in width, which has been dedicated or deeded to the public for public use.

“Structure” is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

“Structural Alteration” is any change in the structural members of a building, such as walls, columns, beams or girders. Vehicles duly licensed for operation upon public streets or highways shall not be considered structures.

“Use” is the purpose or purposes for which land or building is designed, arranged, or intended, or to which said land or building is occupied, maintained or leased.

“Use - Accessory” is a use customarily incidental to a principal permitted use or building and located on the same zoning lot with such principal use or building.

“Use - Specifically Excluded” is a use of land or a structure which is excluded from a district by the operation of other regulations of the district, and which is specifically enumerated as excluded for purposes of clarity of intent and ease of reference.

“Wind Energy System (WES)” is a system of components which converts the kinetic energy of the wind into electricity or mechanical power, and which comprises all necessary components, including energy storage, turbines, power conditioning, control systems, and transmission systems, where appropriate, to provide electricity or mechanical power for individual, residential, agricultural, commercial, industrial, utility, or governmental use. The systems are divided into the following:

1. Small Wind Energy Systems (SWES) which produce less than 5 megawatts of electricity; and
2. Large Wind Energy Systems (LWES) which produce 5 megawatts of electricity or more.

“Yard” is an open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this ordinance on the lot on which a building is situated.

“Yard - Front” is an open space extending the full width of the zoning lot, between the main building and the front line, unoccupied and unobstructed by buildings or structures in excess of 30 inches in height except as provided herein, the depth of which shall be measured as the least distance between the front lot line and the front of such main building.

“Yard - Rear” is an open space extending the full width of the zoning lot between the main building and the rear lot line, unoccupied and unobstructed by buildings or structures in excess of 30 inches in height except as provided herein, the depth of which shall be measured as the least distance between the rear lot line and the rear of such main buildings.

“Yard - Side” is an open space extending from the front yard to the rear yard, between the main building and the side lot line, unoccupied and unobstructed by buildings or structures in excess of 30 inches in height, except as provided herein, the depth of which shall be measured as the least distance between the side lot line and the side of such main buildings.

“Zoning Administrator” is the officer charged with the administration and enforcement of this ordinance or his regularly authorized deputy.

“Zoning, Lot” is a single tract of land located within a single block, which at the time of filing for a building permit or a certificate of occupancy, is designated by the owner or developer as a tract to be used, developed or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure, for which the building permit or certificate of occupancy are issued and including such area of land as may be required by the provisions of this ordinance for such use, building or structure.

Section 1-103. Adoption of official zoning map and descriptions - custody of and maintenance by zoning administrator.

The location, size, shape and boundaries of the zones to which the provisions of the text of this chapter are applicable, shall be indicated on the official zoning map in the zoning administrator’s office and by descriptions incorporated herein and by this reference made a part hereof and said map, after being adopted by reference as a part of this ordinance, and so certified by the county auditor, and said map shall be the official zoning map, for the purpose of enforcement of this ordinance. In case of doubt or dispute, the description of said zones shall govern.

Section 1-104. Establishment, designation and requirements of zoning lots.

In order to facilitate the enforcement of this ordinance the device of zoning lots as defined herein shall be used. A parcel of land shall be designated and suitably recorded by the Zoning Administrator as forming the site of each new building, structure or use of land or the site of any building structure or use of land designated for any alteration or modification requiring a building permit or certificate of occupancy. Said parcel shall conform in dimensions and area to the provisions of this ordinance. A zoning lot may or may not coincide with platted lot lines. Each zoning lot shall front on a public street of not less than 25 feet in width for a distance of not less than 20 feet or shall have a permanent access to such a public street by an unobstructed easement of not less than 20 feet in width.

Section 1-105. Buildings, structures and land conforming to requirements of ordinance.

No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

Section 1-106. Open space and other area conforming to requirements of ordinance.

No open space surrounding any building shall be encroached or reduced in any manner, except in conformity with the yard, lot area, and building location regulations herein designated for the district which such building or open space is located. No yard, off-street parking space, off-street loading space, or other space surrounding any building for the purpose of complying with the provision of this ordinance except as otherwise specified herein, shall be considered as providing a yard or open space for any other building, and no yard or other open space on one platted lot shall be considered as the required open space on another platted lot unless the other platted lot is in the same ownership and is declared as a single zoning lot in applying for a building permit, and provided no land so considered has previously been considered as part of a required building site or zoning lot in the application for a building permit for an existing building. The required yard or open space for any use, building or structure shall be contained in the same zone as required for the principal use, its buildings or accessory buildings.

No lot, yard, off-street loading space, off-street parking space or other open space required for an existing building by the regulations contained herein shall be hereafter reduced in dimension or area below the minimum requirements set forth herein for said building or structure, except to provide for the extension, establishment of widening of a public street or highway.

Section 1-107. Interpretation of ordinance - conflict with other rights.

It is not the intention of this ordinance to defeat the purposes of any contract, deed restriction or protective covenant when such instrument is inconsistent with the ordinance or contains more restrictive requirements. In the event this ordinance conflicts with other provisions of this code, ordinances, rules and regulations adopted pursuant to law, or state or federal law, then the more strict provisions shall apply.

Areas, which are included within the boundaries of an urban renewal plan, or other area plan which has been officially adopted and approved by the commission and a contract with the federal or other government consummated as a consequence thereof, shall not be the subject of any zoning change, which will defeat the purposes of such contract.

Section 1-108. Interpretation of ordinance - conflict with other laws.

In the interpreting or applying the provisions of this zoning ordinance, the minimum requirements adopted for the promotion of the public health, morals, safety, convenience, comfort, and general welfare shall be strictly conformed to. Wherever the requirements of this ordinance are in conflict with the requirements of any other local statute, ordinance, or regulation, the most restrictive, or that imposing the higher standards, shall govern.

Section 1-109. Interpretation of ordinance - certain uses prohibited.

Any use that is not specifically permitted in a district as a principal use, an accessory use or a conditional use, is hereby specifically prohibited. In the regulations for some zones specific excluded uses are enumerated for clarification of intent, but such lists of excluded uses are not to be interpreted as including all excluded uses.

Section 1-110. Application of ordinance to non-conforming uses.

The lawful use of any building or premises existing at the time of the effective date of this chapter shall be allowed to continue although the use does not conform to the regulations of the ordinance in the respective district, and such building may be reconstructed or structurally altered and the non-conforming use changed subject to the following regulations:

Section 1-111. Administration and enforcement of ordinance - building permits - powers and duties of zoning administrator and board of adjustment.

A. *Administration and Enforcement*

This zoning ordinance, except as provided in this ordinance, shall be administered and enforced by the zoning administrator. An appeal concerning the decision of the zoning administrator may be made to the Board of Adjustment as herein provided.

B. *Building Permits*

1. A building permits needs to be issued by the zoning administrator in the event that a new building is erected or additional square footage added to an existing structure.
2. No such building permit shall be issued for any building where such construction, addition, or use there of will not conform to the regulations of this ordinance unless a written request has been submitted to approved by the Board of Adjustment.
3. With all applications for building permits there shall be submitted one copy of a layout or plot plan that meets all setback and height requirements, and said application will include legal description where the structure is to be erected. A careful record of these applications and plat plans shall be kept in the office of the zoning administrator.

C. *The Zoning Administrator shall be appointed by the County Commission.*

D. *Permit Fees shall be as set by the County Commission.*

E. Board of Adjustment

A. Creation of Organization

The Board of Adjustment is hereby established. The Board shall consist of the members of the County Commission of Hyde County appointed by the County Commission. The Board of Adjustment shall convene and adopt rules and regulations for the handling of appeals business. Owners of property within 200 feet and others having a material interest in any matter before the Board of Adjustment shall be given adequate notice so that they may be heard before a decision is made.

- a. The County Commission of Hyde County may appoint a first alternate and a second alternate to the Board of Adjustments for a term of three years each. If a member is unable to attend a meeting, the first alternate or second alternate, in turn shall serve in the member's place.

B. Powers and Duties

The powers and duties of the Board of Adjustment as prescribed by laws and this ordinance are specified as follows:

1. Interpretation

To hear and decide all appeals from the decision of the zoning administrator involving the interpretation of any regulation of this ordinance.

2. Special Permits

To issue special permits for any of the uses which require such permits by the Board of Adjustment; or for the extension of use, as it existed at the time this ordinance went into effect, into a contiguous or more restricted district, but not for any other purpose or use. A special permit shall not be granted unless the Board finds that the use for which the permit is sought will not be injurious to the neighborhood or detrimental to the public welfare.

3. Conditional Use Permits

F. Variances

To vary or adapt any regulation of this ordinance when any such regulation results in practical difficulty or unnecessary hardship that would prohibit the owner from the reasonable use of the land or building involved, but in no other case.

No variance of any regulation shall be granted by the Board unless they find:

- a. That there is proof of the hardship, and the conditions and circumstances are peculiar to such land or buildings, and that these conditions and circumstances do not generally apply to the neighborhood.
- b. That the variance granted by the Board is the minimum variance possible to accomplish the purpose of providing for the reasonable use of the land or building.
- c. That the granting of the variance does not change the essential character of the neighborhood and shall be in accordance with the general purpose and intent of this ordinance.
- d. A variance may be granted in cases where this ordinance refers it to the Board of Adjustment directly.

G. Procedures.

The Board of Adjustment shall act in strict compliance with the procedure prescribed by law and this zoning ordinance. The appeals and application made to the Board shall be made in writing on forms prescribed by the Board. Each appeal or application shall state the interpretation that is claimed, the use for which the permit is sought, or the details of the variance applied for and the reasons why the variance should be granted.

Section 1-112. Inspections by zoning administrator.

Upon completion of the job, the zoning administrator may make a final inspection to determine conformity to this ordinance.

Section 1-113. Procedures for amending, changing, modifying or repealing portions of zoning ordinance.

Amendments and Changes.

Procedures.

1. The County Commission may from time to time amend, change, modify or repeal any portion of the zoning ordinance.

2. Every proposed amendment or change shall be referred to the Hyde County Planning Commission for a report thereon.

Section 1-114. Penalty Provisions.

A violation of this ordinance shall be considered a misdemeanor punishable by a fine not exceeding the maximum established for violation of Class 2 misdemeanor as set forth by South Dakota Codified Law. Each day that the violation continues to exist shall constitute a separate offense.

Section 1-115. Severability

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, such portion shall not affect the validity of the remaining portion or portions of this Ordinance. The Board of County Commissioners declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more parts hereof be declared unconstitutional.

Section 1-116. Jurisdiction and Acquisition Thereof

1. This Ordinance shall not apply to land controlled by Indian Tribal Jurisdiction.
2. All territory which may hereafter come under the jurisdiction of this Ordinance shall automatically be zoned Agriculture A, until such time as it shall be zoned otherwise by the County Commission.

Sections 1-117 to 199, inclusive, Reserved.

Section 2-101-116, inclusive. Exceptions and encroachments - general provisions.

Section 2-101. Requirement for conforming structures to height limitations.

Any structure hereafter erected or altered shall comply with the height limitations of the district in which it is located except as specified in this article.

Section 2-102. Certain appurtenances may exceed height limitations - exceptions.

The following appurtenances may exceed the prescribed height limit provided they are normally required for use permitted in the district in which they are erected or constructed; flagpoles, chimneys, cooling towers, elevator bulkheads, belfries, penthouses for other than living purposes, grain elevators, stacks, silos, storage towers, observation towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and other necessary mechanical appurtenances and their protective housing; provided, however, that any of the above, except flagpoles and chimneys when located in any district with a height limit of 40 feet or less, shall be allowed only upon a finding of the Board of Adjustment that such appurtenances will not be unduly detrimental to the surrounding property.

Section 2-103. Certain electronic towers allowed with permission of the Board of Adjustment.

Radio, television, microwave, cellular, global positioning system (GPS), *Meteorological* and other electronic transmission or receiving towers in excess of height limits may be allowed in any district as a conditional use upon a finding by the Board of Adjustment that topographic or other physical considerations make it necessary that they be located outside a district where they are permitted as a matter of right and that the proposed tower or towers will not be unduly detrimental to surrounding property.

Section 2-104. Restrictions on structures established by FAA or S.D. Division of Aeronautics rules.

In any district, no structure shall be erected where prohibited or which exceeds the maximum heights permissible under the rules of the Federal Aeronautics Administration or the South Dakota Division of Aeronautics.

Section 2-105. Certain public and semi-public and structures allowed to exceed height limitations with permission of Board of Adjustment.

Public and semi-public buildings and structures such as hospitals, churches, sanitariums, schools and water reservoir towers may exceed the height limits of the district in which they are located, provided that such buildings and structures shall provide at least one additional foot of yard space on each side for each additional foot that such building or structure exceeds the specified height limit of the district in which it is located and further provided that a finding is made by the Board of Adjustment that such additional height will not be materially detrimental to surrounding property; however, the Board of Adjustment shall require the building to conform to necessary fire regulations.

Section 2-106. Requirement for conforming buildings and structures to yard space regulations.

Any building or structure hereafter erected, altered or established shall comply with the yard space requirements of the district in which it is located except as specified below: All residential structures erected or moved into the local business district shall respectively conform to the

regulations governing the residential district to which the residence conforms. Any required yard space shall be open from 30 inches above the ground to the sky except as specified herein.

Section 2-107. Certain automobile storage garages excepted from yard space requirements with permission of Board of Adjustment.

Automobile storage garages may be allowed within a required front or side yard when such garage will be entirely below the grade of the lot and after a finding by the Board of Adjustment that topographic conditions make such a location necessary, that such orientation will not create a hazard to automobile or pedestrian traffic in the street, and that such orientation will be in harmony with the character of development of the neighborhood.

Section 2-108. Certain one-family dwelling allowed on lots smaller than yard space requirements with permission of Board of Adjustment.

No dwelling may be erected on any lot, separately owned or under contract of sale and containing, at the time of the passage of this ordinance, an area or a width smaller than that required for a one-family dwelling, unless allowed by the Board of Adjustment.

Section 2-109. Requirements for walls, hedges and fences to provide unobstructed view at intersections - exceptions.

There shall be provided an unobstructed view across the triangle formed by joining points measured 60 feet distant along the property line from the intersection of two streets or 15 feet along both the street and alley line from the intersection of a street and an alley. Where there is a speed limit of 30 miles per hour or less, said distance along the property line for streets shall be twenty feet. Within said triangle, there shall be no sight obscuring or partly obscuring walls, fence or foliage higher than 30 inches above grade, excluding agricultural crops or in the case of trees, foliage lower than 8 feet. Vertical measurement shall be made at the top of the curb on the street or alley adjacent to the nearest side of the triangle or if no curb exists, from the edge of the nearest traveled way. This provision does not apply to chain link fences, on which no obstructions are attached thereto.

Section 2-110. Power of Board of Adjustment to grant interim special use permits for certain uses.

It is recognized that there may be extensive areas of undeveloped land upon which the planned type of development will not take place for a considerable time. It is therefore reasonable and proper that interim uses not in conformity with the land use plan be allowed.

The Board of Adjustment is authorized to grant special use permits for property within the district allowing for uses not allowed as a matter of right in said district under the following conditions:

1. The proposed use shall be an open land type of use and shall not involve the erection of permanent buildings or other permanent improvements and shall be

located in an undeveloped area, provided however, that permanent buildings shall be allowed which conform with the zoning in force upon the parcel.

2. The proposed use and the placement thereof upon the land shall be such that it shall not be unsightly to the general public or interfere with the enjoyment or use of neighboring properties.
3. All permanent structures shall comply with all provisions of the district in which the proposed use is located.
4. The Board of Adjustment may append reasonable conditions to any special use permit to the end that the objectives of this ordinance may be upheld.

Section 2-111. Procedures, conditions, and restrictions on interim special use permits.

Before issuing any special use permit, the Board shall hold a public hearing and shall give notice hereof to all property owners within 2640 feet and to the county commission. Before approving any special use permit, the board shall request and receive the favorable recommendation of the county commission. The zoning administrator shall enforce compliance with the terms of the special use permit and shall initiate actions for renewal or cessation of the activity at the expiration of the special use permit.

No special use permit shall be issued for a period to exceed two years, provided however, that such special use permit may be renewed for additional periods not to exceed two years each, upon finding that conditions have not changed sufficiently to warrant denial of such a renewal.

No property owner or owner of other interest in the land shall have a vested right in the renewal of any special use permit.

Sections 2-112 to 199, inclusive. Reserved.

Sections 3-101 to 106, inclusive. Off-street parking and loading - general provisions.

Section 3-101. Statement of purpose for off-street parking and loading regulations.

It is the intent of this ordinance that all buildings, structures and uses of land shall provide off-street parking and loading space in an amount sufficient to meet the needs caused by the building or use of land and that such parking and loading spaces be so oriented that they are in fact readily usable for such purpose.

Each use of land and each building or structure hereafter constructed or established and each addition to a structure in excess of 300 square feet, except as herein provided, shall provide off-street parking and loading according to the standards set forth herein. When an addition is made to a building non-conforming as to parking or loading a confirming amount of parking shall be supplied based upon the size of the addition.

Section 3-102. Requirement for conforming all buildings to off-street parking and loading regulations - exceptions.

No addition to an existing building shall be constructed which reduces the number of spaces, area or usability of existing parking or loading space unless such building and its addition, conform with the regulations for parking and loading contained herein. Contractual agreements may be made between uses which generate parking demand at different times in such a manner that the requirements or more than one use may be met by the same space provided the parking demand for each such use involved is in fact met. All required parking space shall be on the same lot with the building, except that if the Board of Adjustment determines that it is impractical to provide parking on the same lot, said board may permit the parking spaces to be on any lot within five hundred (500) feet of the building.

Section 3-103. Requirement for surfacing, classification and size of off-street parking and loading spaces and aisles - exceptions.

All off-street parking and loading spaces, access and aisles shall be provided with an all weather surface.

Uses listed in Sections 3-104 to 106, inclusive, shall provide parking and loading in the amounts specified and at locations specified for the group in which such use falls. For any use not listed, the Board of Adjustment shall determine the proper requirement by classifying the proposed use among the uses specified herein so as to assure equal treatment. In making any such determination, the board shall follow the principles set forth in the statement of purpose for the parking and loading provisions.

For the purpose of this ordinance a parking space shall be at least 180 square feet in size and shall be of easily usable and convenient shape, orientation and grade. Each such space shall be readily accessible and aisles required for access to any space shall not be counted in meeting the requirements for spaces. Loading spaces shall be at least 12 feet side and 60 feet long for industrial and warehouse type uses but may be 12 feet wide and 30 feet long for retail, service and institutional establishments. Aisles adequate to accommodate the maneuvering into position of such vehicles shall be provided accessory to such space or spaces. Specified distances from the principal use for which a parking space is provided shall be measured from the edge of the usable parking space to a normal entrance to the building or use along a convenient and unobstructed pedestrian route.

Required parking spaces for multiple family dwellings shall not be provided within a required front yard or a required side yard at a corner without special permission of the Board of Adjustment.

Section 3-104. Group A classification and requirements for off-street parking and loading spaces.

Group A: All uses of land and building enumerated under Group A shall provide off-street parking and loading space on the same zoning lot as such use or building and said parking or loading space shall have convenient and unobstructed pedestrian access across said zoning lot to a principal entrance to the building or use as hereinafter set forth.

USE	PARKING REQUIRED	LOADING SPACES REQUIRED
Multiple Family Dwellings	Shall have a minimum of 1.5 parking spaces per dwelling unit; if constructed with a garage, two spaces are required with the garage permitted as one space.	None
Two Family and Multiple Family dwelling units containing one-bedroom or efficiency units.	Shall have a minimum of 1.0 parking space for each of above units. A garage may be considered as one parking space	None
Multiple Family dwelling units to be used exclusively for the housing of the elderly, being one or more persons per dwelling unit over 60 years of age	Shall be .8 parking spaces per unit	None
Single Family Dwelling	Two for each	None
Boarding, rooming and lodging houses	One for each bedroom	None
Doctor’s offices, medical and dental clinics	4 spaces for each medical or dental practitioner	None
Restaurants, beer parlor, taverns, bars, night	One for each 5 seats	None

clubs

Retail stores and shops	One for each 300 square feet of floor space, to 10,000 sq. ft., one for each 500 sq. ft. of gross floor space over 10,000 sq. ft.	One
Furniture and appliance sales and furniture and appliance repair	One for each 500 sq. ft. of gross sales space and repair space	One
Funeral home and mortuaries	One for each 5 seats in chapel	One
Beauty and barber shops	2 for each operator	None
Automotive or machinery sales and service garages	One for each 500 sq. ft. of floor area	One
Bowling alleys	7 for each alley	None, unless beer parlor or restaurant is attached, then one space
Roller and ice rinks, intensive sports and recreation establishments and dance halls	One for each 75 sq. ft. of gross floor area of public space as appropriate	None
Banks and professional offices and general offices	One for each 400 sq. ft. of floor area	One for buildings of over 10,000 sq. ft.

Section 3-105. Group B classification and requirements for off-street parking and loading spaces.

Group B: All uses of land, or buildings enumerated under Group B shall provide off-street parking and loading on the same zoning lot as such building or use for all customers or patrons frequenting the establishment and said parking, or loading, space shall have convenient and unobstructed pedestrian access across said zoning lot to a principal entrance to the building or use. That portion of the parking requirement that is attributed to employees may be provided within 330 feet of the use of building as hereinafter set forth.

USE	PARKING REQUIRED	LOADING
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		SPACES REQUIRED
Motel or hotel with restaurant and bar	One space for each unit, and one space for each 10 seats in restaurant and bar	One
Hotel, motel, club with guest rooms	One space for each unit	One
Hospitals and rest homes	One space for each 3 beds	One space for the first 40,000 sq. ft. of floor area or fraction thereof plus one space for each additional 150,000 sq. ft. of floor area or major fraction thereof.
College, fraternities, college, sororities	One space for each 2 bedrooms. Half of requirements may be off-site	One
Clubs, organization halls	One space for each 200 sq. ft. of assembly space on-site	One
Office buildings of 10,000 sq. ft. or over (if less than 10,000 sq. ft. see general office)	One space for each 500 sq. ft. of gross floor area on-site	One
Wholesale stores with stock of goods (without stock see general office)	One space for each 500 sq. ft. of gross floor area. At least half of requirements shall be on site.	One
Warehouses	Four spaces for the first 5,000 sq. ft. of gross floor area, plus one additional space for each additional 5,000 sq. ft. or major fraction thereof, 25% of total requirement shall be on site.	One space for the first 5,000 sq. ft. of gross floor area plus one space for each additional 10,000 sq. ft. of gross floor area.

Section 3-106. Group C classification and requirements for off-street parking and loading spaces.

All uses of land and buildings enumerated under Group C shall provide off-street loading on the same zoning lot as such building or use and such loading space shall have convenient and unobstructed access to said building or use. Parking requirements for customers, patrons, and employees may be provided within 500 feet of said use or building except as hereinafter set forth.

USE	PARKING REQUIRED	LOADING SPACES
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		REQUIRED
Auditoriums, stadiums, (except school), theaters, community centers and similar places of public assembly	One space for each 5 seats in the main assembly area, or where no fixed seats are provided, one space for each 50 sq. ft. of main assembly area	None
Churches	One space for each 5 seats in the main assembly area	None
Libraries, museums, and similar uses	One space for each 600 sq. ft. of gross floor area	One space
Senior high schools, junior high school, elementary schools, (including public, parochial and private)	One space for each teacher or employee plus one space for each 50 sq. ft. of seating space in the auditorium or multi-purpose room, whichever is larger	One space
Manufacturing, freight terminals	4 spaces for each 10,000 sq. ft. of gross floor area or major fraction thereof plus space for each employee on the largest shift	Sufficient to allow for completely off-street loading operation but in no event, less than required herein for a warehouse

Section 3-107. Platting requirements.

More than one contiguous lot or parcel or one lot or parcel plus a portion(s) of one or more contiguous lot(s) or parcel(s), applied to a combination of contiguous platted lots or parcels, shall be taken as a whole, rather than individually. Said lot(s) or parcel(s) shall be platted when combined acreage reaches twenty (20) acres. All lots or parcels shall be required to have at least one hundred (100) feet of public road frontage. All plats shall delineate how many acres from a particular legal description are platted in the event the plat encompasses more than a quarter section or separate taxable parcel.

Section 3-108 to 199, inclusive. Reserved.

Sections 4-101 to 4-108, inclusive. Agricultural District “A-A” - general provisions.

Section 4-101. Legal boundary descriptions for Agricultural District A.

All property in rural Hyde County not otherwise zoned.

Section 4-102. Statement of purpose for Agriculture District A.

Agriculture District A is designed to preserve agricultural lands from encroachment of incompatible uses and to conserve agricultural resources.

Agricultural use of land becomes a non-conforming use when the land is zoned for other purposes. This ordinance intends that such non-conforming use be allowed to continue, if continuous. The fact that an agricultural use exists and will be allowed to continue to exist if continuous should be considered by other uses moving into an area.

Section 4-103. Principal Permitted Uses.

The following uses are permitted as the principal use of any parcel of property in the Agricultural district A-A, except for uses excluded when located in Airport Noise Zone A.

1. Uses directly relating to agricultural production and processing practices including processing of products grown on the premises but exclusive of the following:
 - a. Commercial meat- packing, slaughtering, rendering and related activities.
 - b. Confinement Feeding or Dairy Operations with a capacity for more than 400 animal units may be allowed as a conditional use.
 - c. Commercial feedlots with a capacity of more then 400 animal units and in operation, 180 days or more per calendar year may be allowed as a conditional use.
2. Farm Feed Lots
3. Confinement Feeding or Dairy Operations with a maximum capacity of 399 animal units.
4. Dwellings and manufactured homes for owners and employees, normal farm and ranch structures, and residential accessory uses.
5. Outdoor-type recreational enterprises, which utilize land resources in their natural state.
6. Veterinary clinics.
7. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipeline and their necessary appurtenances.

8. Sand and gravel pits.
9. Residential dwellings not related to agriculture.
10. Agriculture

Section 4-104. Accessory uses.

The following uses are permitted as accessory to the principal permitted uses in the Agricultural District A.

1. Facilities common to farm and ranch activities, private swimming pools.
2. Roadside stands for the sale of products grown on the premises.
3. Home occupations.
4. Accessory uses common to all residential districts.
5. Shelterbelts

Section 4-105. Conditional uses.

The following uses are permitted in the Agricultural District after a finding by the Board of Adjustment that their mode of conduct and location will not hinder the enjoyment and use of nearby properties and will not disrupt the appropriate use of land and resources of the county:

1. Confinement, commercial feeding or dairy operations with more than 400 animal units.
 - a. Application for a conditional use permit for a confinement feeding operation shall include the following requirements.
 1. Notification of adjacent property owners by certified mail living within one mile of the confinement site in an established dwelling.
 2. The granting of a conditional use permit shall be conditioned on receiving the general permit from the South Dakota Department of Environmental and Natural Resources which is required for all livestock confinement facilities, commercial feedlot or dairy operations of 400 animal units or more shall comply with all

requirements of the South Dakota Department of Environment and Natural Resources.

3. Annual statement of compliance to conditions of the conditional use permits and the general permit issued by the Department of Natural Resources to the Hyde County Commission.
4. The minimum separation in Table 1 shall be used in siting a concentrated animal feeding operation. The minimum separation criteria may be increased based on site specific conditions. The separation measurement shall begin at any significant improvement such as a barn, lagoon, fence, or any similar structure. When a proposed operation does not meet the minimum separation, the application shall be accompanied by one of the following or a combination thereof:
 - a. A signed waiver from each landowner located closer than the minimum separation criteria. No building permit shall be issued until the waivers are filed with the County Register of Deeds.
 - b. In the absence of a waiver, documentation shall be presented on new technology, management practices, topographic features, soil conditions or other factors which substantiate a reduction in the minimum separation criteria.

Table 1
Concentrated Animal Feeding Operations
Minimum Separations Criteria

	Class A 2,000 AU +	Class B 1,000 AU +	Class C up to 999
Dwellings, Churches, School, and Businesses	5,280 feet plus 880 ft For each additional 250 AU (or portion thereof) over 2,000 AU	2,640 feet plus 660 ft. For each additional 250 AU (or portion thereof) over 1,000 AU	1,320 feet plus, 440 ft For each additional 250 AU (or portion thereof) over 250 AU

5. Minimum separation requirement for animal waste application sites:
 - a. Residence (other than operator) surface applied 300 ft., injected 50 ft.
 - b. Municipalities surface applied 1,000 ft., injected 300 ft.
2. Quarters for transient labor.
3. Bituminous hot mix plants, concrete batch plants.
4. Cemetery, crematories, mausoleums.

5. Sanitary landfills.
6. Commercial crop processing plants.
7. Game Lodges, shooting preserves, sporting clays.
8. Wind Energy Systems (WES)
9. Communication Towers
10. Agribusiness Activities
11. All uses permitted in C-2 (General Commercial)

Section 4-106. Space limitations.

The following space limitations shall apply to structures and buildings associated with each principal permitted use, each conditional use and each accessory use, except fences and signs:

Required Lot Area

1. The minimum size for a farm shall be twenty (20) acres.

Yards Required

1. Minimum front yard (setback): Fifty (50) feet measured from property line or right of way; whichever is applicable.
2. Minimum setbacks from State Highway 14, 34 and 47 right-of-ways shall be fifty (50) feet.
3. Minimum rear yard setback: Fifty (50) feet measured from the property line or right of way; whichever is applicable.
4. Minimum side yard space: Twenty-five (25) feet from the property line or right of way; whichever is applicable.
5. All uses established in this zoning district shall provide parking and loading space off the public right-of-way in sufficient quantity to accommodate the normal activities of such uses.
6. A land survey and recorded plat of property less than ~~thirty-five (35)~~ *twenty (20)* acres is required prior to issuing a building permit for any building under principal permitted uses and accessory uses. Metes and bounds will not be accepted.

Section 4-107. Performance standards.

The following performance standards shall apply to the uses indicated. They shall be supplemental to and in addition to other provisions applying to the property:

1. Feed lots, confinement feeding, dairy operations, corrals or winter quarters, in which animals are kept at a density of over ten head per acre or where feed bunkers or water are placed so that animals naturally tend to bunch up, or poultry houses, or kennels containing more than three dogs over six months or age, shall not be closer than three hundred (300) feet from any lot line adjoining properties which are used for residential, business, or industrial or recreational purposes. (This paragraph does not intend to discriminate against the above agricultural uses existing prior to the zoning for other purposes.)
2. Such feedlots and corrals shall maintain drainage so as to avoid excessive concentration of contaminated water and such drainage shall be so arranged that contaminated water does not drain into watercourses in such manner that it reaches neighboring properties at a concentration noticeable to normal senses.
3. All dead animals shall be removed within a reasonable length of time.
4. All shelterbelts shall be one hundred and twenty (120) feet *from the first row* to the center of the section line or road; whether it is improved or unimproved.

Sections 4-108 to 199, inclusive, Reserved.

Sections 4-201 to 207, inclusive. Agriculture District “A-B” - general provisions.

Section 4-201. Legal boundary descriptions for Agriculture District A-B.

Excluding the plat of the unincorporated Village of Holabird; One-half (1/2) mile corridor on each side of US Highway 14, one-half (1/2) mile corridor on each side of State Highway 34, One-half (1/2) mile corridor on each side of State Highway 47, One-half (1/2) mile corridor on each side of State Highway 26 with the beginning point being the centerline of the right of way, three miles from the city limits of the municipality of Highmore with the designated roads being 196th St, 339th Ave, 200th St, and 335th Ave according to the official zoning map of Hyde County.

Section 4-202. Statement of purpose for Agriculture District A-B.

Agriculture District A-B is designed to preserve agriculture lands from encroachment of incompatible uses in areas of established residential areas and State Highway Corridor 14 in Hyde County.

Section 4-203. Principal permitted uses.

The following uses are permitted as the principal use of any parcel of property in the Agricultural District B, except for uses excluded when located in Airport Noise zone A.

1. Agriculture, including horticulture and the raising of field crops and animal husbandry, poultry farms and kennels under performance conditions.
2. Ranch and farm dwellings and normal farm and ranch buildings.
3. Riding academies, dude ranches and other farm and ranch type recreational enterprises.
4. Golf courses and country clubs but not including automotive race traces or driving tracks, golf driving ranges (except as included in the operation of a golf course or country club of at least nine holes), outdoor theaters or similar commercial recreation enterprises.
5. Home occupation.
6. Sign not over twelve square feet in area identifying the occupants or the activity engaged in on the premises but not including billboards.
7. Recreational facilities owned or operated by government or by charitable or religious organizations.
8. Churches, schools, colleges, and similar facilities.
9. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipelines and their appurtenances.
10. All residential uses.
11. ~~Communication Towers~~

Section 4-204. Accessory uses.

The following uses are permitted as accessory to the principal permitted uses in the Agricultural District A-B.

1. Facilities common to farm and ranch activities, private swimming pools.
2. Living quarters for persons regularly employed on premises, but not including labor camps or dwellings for transient labor.
3. Roadside stands for the sale of products grown on the premises.

4. Home occupations.
5. Accessory uses common to all residential districts.
6. Shelterbelts.

Section 4-305. Conditional Uses.

1. All uses permitted in Light Commercial (C-1)
2. Agribusiness Activities
3. Game Lodges, shooting preserves, sporting clays
4. *Communication Towers as defined in Section 2-103*

Section 4-206. Certain uses declared incompatible and excluded.

The following uses are hereby declared incompatible with the purpose of the Agriculture A-B District and are hereby expressly excluded.

1. Confinement feeding or dairy operations with more than 400 animal units.

Section 4-207. Certain uses lying in Airport Noise Zones declared incompatible and excluded.

Airport Noise Zone A is a relatively high noise area best suited for agricultural use or industrial use when a high noise level can be tolerated. Any structural development must meet the criteria for height restrictions as well as compatibility.

The following uses are hereby declared incompatible with the purpose of airport noise zone A and are hereby expressly excluded for any part of this district located in Airport Noise Zone A:

1. All residential dwellings.
2. Auditoriums, concert halls, music shells, and outdoor theaters.
3. Churches, schools, colleges, rest homes, and similar facilities.

4. Hospitals and clinics.
5. Office buildings.
6. Mortuaries, funeral homes and funeral chapels.
7. Industrial and manufacturing establishments or other uses which produce smoke interfering with the safe use of the airport.
8. Any other use, which would create electrical interference with radio communications between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, and impair visibility in the vicinity of the airport.

Airport Noise Zone B is ordinarily a relatively low noise area with no restrictions. Hospitals, churches, auditoriums and such should consider sound control in design of facilities if located in this zone and especially if located in areas of this zone closest to the airport. The reason for the establishment of Noise Zone B is to notify the general public that such an area is in the established airport noise zones and as such may be subjected to noise pollution.

Section 4-208. Space limitations.

The following space limitations shall apply to structures and buildings associated with each principal permitted use, and each accessory use, except fences and signs:

Required Lot Area

The minimum size of a farm is twenty (20) acres.

Percentage of Lot Coverage

All buildings including accessory buildings shall not cover more than twenty-five (25) percent of the area of the lot.

Yards Required

Each lot shall have front, side and rear yards not less than the depths or widths following:

1. Front Yard Depth: Fifty (50) feet measured from the property line or right of way; whichever is applicable.
2. Rear Yard Depth: Fifty (50) feet measured from the property line or right of way; whichever is applicable.

3. Side Yard Width: Twenty-five (25) feet on each side of the building.
4. Minimum set back from State Highways 14, 34 and 47 right-of-ways shall be fifty (50) feet.
5. A land survey and recorded plat or of property less than ~~thirty-five (35)~~ *twenty (20)* acres is required prior to issuing a building permit for any building under principal permitted uses and accessory uses. Metes and Bounds will not be accepted.

Section 4-209. Performance standards.

The following performance standards shall apply to the uses indicated. They shall be supplemental to and in addition to other provisions applying to the property:

1. Feed lots, confinement feeding, dairy operations, corrals, or winter quarters in which animals are kept at a density of over ten head per acre or where feed bunkers or water are placed so that animals naturally tend to bunch up, or poultry houses, or kennels containing more than three dogs over six months of age, shall not be closer than 300 feet from any line adjoining properties which are used for residential, commercial, manufacturing or recreational purposes.
(This paragraph does not intend to discriminate against the above agriculture uses existing prior to the zoning for other purposes.)
2. Such feed lots, or corrals, shall maintain drainage, so as to avoid excessive concentration of contaminated water and such drainage shall be so arranged that contaminated water does not drain into water courses in such a manner that it reaches neighboring properties at a concentration noticeable to normal senses.
3. Manure in such feedlots or corrals shall not be allowed to accumulate to objectionable proportions.
4. All dead animals shall be removed within a reasonable length of time.
5. Feed shall be limited to fresh materials and shall not include sour silage, sugar beet pulp, paunch manure, garbage, or other materials, which may have a tendency to create objectionable odors.
6. Parking and loading spaces sufficient to meet all reasonable demands for such space shall be provided off the public right-of-way.

7. All shelterbelts shall be one hundred and twenty (120) feet from ~~the first row to~~ the center of the section line or road; whether it is improved or unimproved.

Sections 4-209 to 299, inclusive. Reserved

Section 4-301. Legal boundary descriptions for Agriculture District A-C.

RESERVED

Section 4-302. Statement of purpose for Agriculture District A-C.

The Agriculture District A-C is to provide an alternative living environment for persons desiring larger acreage than is practical in a city yet generally less acreage than is necessary for agricultural pursuits. It is intended that this district will provide a minimum of public utilities, services or improvements, and a strictly rural type environment as commonly known in terms of open space, odors, noises, dust and self-sufficiency.

Section 4-303. Principal permitted uses.

The following uses are permitted as the principal use of any parcel of property in the Agricultural District A-C, except for uses excluded when located in Airport Noise Zone A.

1. Agriculture, including horticulture and the raising of field crops and animal husbandry, poultry farms and kennels under performance conditions. No confinement feeding operations (housed or open lot) shall be allowed.
2. Ranch and farm dwellings and normal farm and ranch buildings.
3. Single family dwellings.
4. Manufactured home dwellings.
5. Riding academies, dude ranches and other farm and ranch type recreational enterprises.

6. Golf courses and country clubs but not including automotive race tracks or driving tracks, golf driving ranges (except as included in the operation of a golf course or country club of at least nine holes), outdoor theaters or similar commercial recreation enterprises.
7. Home occupations.
8. Sign not over twelve square feet in area identifying the occupants or the activity engaged in on the premises but not including billboards.
9. Recreational facilities owned or operated by government or by charitable or religious organizations.
10. Churches, schools, colleges, and similar facilities.
11. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipelines and their appurtenances.

Section 4-304. Accessory uses.

The following uses are permitted as accessory to the principal permitted uses in the Agricultural District C.

1. Facilities common to agricultural or residential uses.

Section 4-305. Conditional Uses.

5. All uses permitted in Light Commercial (C-1)

Section 4-306. Certain uses lying in Airport Noise Zones declared incompatible and excluded.

Airport Noise Zone A is relatively high noise area best suited for agricultural use or industrial use when a high noise level can be tolerated. Any structural development must meet the criteria for height restrictions as well as compatibility.

The following uses are hereby declared incompatible with the purpose of Airport Noise Zone A and are hereby expressly excluded for any part of this district located in Airport Noise Zone A:

1. All residential dwellings.
2. Auditoriums, concert halls music shells, and outdoor theaters.
3. Churches, schools, colleges, rest homes, and similar facilities.
4. Hospitals and clinics.

5. Office buildings.
6. Mortuaries, funeral homes and funeral chapels.
7. Industrial and manufacturing establishments or other uses which produce smoke interfering with the safe use of the airport.
8. Any other use, which would create electrical interference with radio communications between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, and impair visibility in the vicinity of the airport.

Airport Noise Zone B is ordinarily a relatively low noise area with no restrictions. Hospitals, churches, auditoriums and such should consider sound control in design of facilities if located in this zone and especially if located in areas of this zone closest to the airport. The reason for the establishment of Noise Zone B is to notify the general public that such an area is in the established airport noise zones and as such may be subjected to noise pollution.

Section 4-307. Space limitations.

The following space limitations shall apply to structures and buildings associated with each principal permitted use, and each accessory use, except fences and signs:

Building Height Limit

No building shall exceed two and one-half (2 1/2) stories, or thirty-five (35) feet in height. There shall be no height limit for accessory farm structures or wind energy conversion systems.

Required Lot Area

Not less than forty-three thousand five hundred sixty (43,560) square feet (1 acre); unless a common septic sewer system is available. Some permitted uses may be required to have larger amounts of land under State of South Dakota regulations governing sewage and waste disposal systems.

Percentage of Lot Coverage

All buildings including accessory buildings shall not cover more than fifteen (15) percent of the area of the lot.

Yards Required

Each lot shall have front, side and rear yards not less than the depths or widths following:

1. Front Yard Depth: Fifty (50) ft measured from the property line or right of way; whichever is applicable.

2. Rear Yard Depth: Fifty (50) ft measured from the property line or right of way; whichever is applicable.
3. Side Yard Depth: Not less than fifteen (15) feet but the sum of the two side yards shall not be less than thirty (30) feet.
4. Minimum set back from State Highway 14, 47 and 34 right-of-ways shall be fifty (50) ft.

PLAT REQUIRED

A land survey and a recorded plat is required prior to issuing a building permit for any building under principal permitted uses and accessory uses.

Section 4-308. Performance standards.

The following performance standards shall apply to the uses indicated. They shall be supplemental to and in addition to other provisions applying to the property:

1. Corrals or winter quarters in which animals are kept at a density of over ten head per acre or where feed bunkers or water are placed so that animals naturally tend to bunch up, or poultry houses, or kennels containing more than three dogs over six months of age, shall not be closer than 300 feet from any line adjoining properties which are used for residential, commercial, manufacturing or recreational purposes.
2. Such corrals shall maintain drainage, so as to avoid excessive concentration of contaminated water and such drainage shall be so arranged that contaminated water does not drain into water courses in such a manner that it reaches neighboring properties at a concentration noticeable to normal senses.
3. Manure in corrals shall not be allowed to accumulate to objectionable proportions.
4. All dead animals shall be removed within a reasonable length of time.
5. Feed shall be limited to fresh materials and shall not include sour silage, sugar beet pulp, paunch manure, garbage, or other materials, which may have a tendency to create objectionable odors.
6. Parking and loading spaces sufficient to meet all reasonable demands for such space shall be provided off the public right-of-way.
7. Shelterbelts shall be fifty (50) feet from section line right-of-ways or twenty-five (25) feet from the exterior boundaries of the subdivision.

Section 4-308 to 399, inclusive. Reserved.

Section 5-101 to 107, inclusive. Uses common to all residential districts - general provisions.

Section 5-101. General statement concerning uses common to all residential districts.

There are certain uses, which are considered acceptable when found in any residential district when developed according to space limits proper for a particular zone.

The uses set forth in Sections 5-102 to 106, inclusive, are permitted in all residential districts subject to further restrictions or liberalizations which are imposed by a specific district, or when excluded when located in Airport Noise Zone A.

Section 5-102. Principal permitted uses.

1. Off-street parking shall be provided for all uses established in the residential districts.
2. Only one building for living purposes shall be permitted on one zoning lot, except as otherwise provided herein.
3. Single-family detached dwellings (excluding manufactured homes).
4. Public, parochial and private schools and colleges offering courses of general instruction when located on sites of at least five (5) acres, and including convents, monasteries, dormitories and other related living structures when located on the same site as the church.
5. Churches, synagogues, chapels and similar places of religious worship and instruction of a quiet nature when located in a substantial structure.
6. Parks and recreation areas operated by the city or other political subdivision.
7. Public and quasi-public buildings for cultural uses.
8. Country clubs as defined herein.

Section 5-103. Accessory uses.

The following accessory uses are permitted in all residential districts subject to further restrictions or liberalizations, which are imposed, by a specific district.

1. Private garages and sheds.

2. Private swimming pools exclusively for the use of residents of the premises and their non-paying guests and subject to any other regulations or ordinances.
3. The parking of one unoccupied trailer designed for recreational use and not to exceed 31 feet in length within a building or in the open in a rear yard but subject to any permits required by law or ordinance.
4. The storage of two pleasure boats within a building, or in the open in the rear or side yard.
5. Signs not to exceed two (2) square feet in area identifying the premises and occupant, but not including advertising matter. Public, parochial, private schools and colleges, children’s homes, churches, synagogues, chapels, and public and quasi-public buildings for cultural use, may have identification signs not to exceed 12 square feet in area.
6. Real estate or sales signs not over 6 square feet in area and relating to the property on which the sign is located.
7. Subdivision signs in subdivisions recorded after passage of this chapter which are non-illuminated and which contain information pertaining only to the subdivision for a period of four (4) years following the filing date or until 75% of the lots have been sold, whichever occurs first, at which time the sign shall be removed. Subdivision signs shall be subject to the space limits of the district in which located and shall not be closer than 75 feet from property owned by other than the developer. The size of the sign shall not be greater than the following:

SIGN SIZE	NUMBER OF LOTS IN SUBDIVISION	
	40 SQUARE FEET	3 TO 10
	64 SQUARE FEET	11 TO 25
	80 SQUARE FEET	26 OR MORE

8. Other accessory uses and structures customarily appurtenant to a permitted use.

Section 5-104. Conditional Uses.

The following uses are conditionally permitted in residential districts.

1. Utility substations when located according to the yard space rules set forth for dwellings and having a landscaped or a masonry barrier on all sides and after a

showing before the board that technical considerations necessary to the functioning of said utility requires the location of the facility in a residential district. Structures shall conform to all space limits of the district in which located and shall have an exterior design in harmony with nearby properties.

2. Railroad through and spur tracks, but no sidings or other terminal type facilities and no service, repair, or administrative facilities, and after a showing before the board that such facilities are necessary in the location proposed.

Section 5-105. Certain uses lying in Airport Noise Zones declared incompatible and excluded.

Airport noise zone A is a relatively high noise area best suited for agricultural use or industrial use when a high noise can be tolerated. Any structural development must meet the criteria for height restrictions as well as compatibility.

The following uses are hereby declared incompatible with the purpose of airport noise zone A and are hereby expressly excluded for any part of this district located in airport noise zone A:

1. All residential dwellings.
2. Auditoriums, concert halls, music shells and outdoor theaters.
3. Churches, schools, colleges, rest homes, retirement homes, and similar facilities.
4. Hospitals and clinics.
5. Office buildings.
6. Mortuaries, funeral homes and funeral chapels.
7. Industrial and manufacturing establishments or other uses which produce smoke interfering with the safe use of the airport.
8. Any other use, which would create electrical interference with radio communications between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, and impair visibility in the vicinity of the airport.

Airport Noise Zone B is ordinarily a relatively low noise area with no restrictions. Hospitals, churches, auditoriums and such should consider sound control in design of facilities if located in this zone and especially if located in this zone closest to the airport. The reason for the establishment of noise zone B is to notify the general public that such an area is in the established airport noise zones and as such may be subject to noise pollution.

Section 5-106. Side yard depth on corner lots.

On every corner lot in a residential district there shall be provided on the side street a side yard of not less than thirty-five (35) feet.

Section 5-107. Requirements for conforming one-family dwellings to the regulations of their respective districts.

All one-family dwellings shall conform to all regulations of their respective districts.

Section 5-108. Allowable yard space encroachments for eaves, cornices and architectural features.

Eaves, cornices and projecting architectural features may extend two feet into a required yard space except that eaves may encroach three (3) feet into a yard space when such yard space is seven feet or more in width.

Section 5-109. Allowable yard space encroachments for fire escapes.

Open fire escapes may extend into any required side or rear yard not more than five (5) feet.

Section 5-110. Allowable yard space encroachments for chimneys.

Chimneys when not more than 4 feet wide may extend two feet into any required yard space.

Section 5-111. Allowable yard space encroachments for porches and terraces - other requirements.

Open, uncovered porches or terraces no higher than the first floor above grade on the side of the building to which they are appurtenant and in no event higher than 30 inches above grade of the lot on the side of the building where such porch or terrace is located, may extend into any required yard. No railing or other barrier higher than 36 inches shall be placed around such porch or terrace. Any such porch or terrace when located on a lot at the intersection of two streets or a street and an alley shall comply with the provisions designed to insure proper sight distances as set forth in this ordinance for fences and hedges. Enclosed or covered porches shall be considered part of the building in determination of the size of yard or lot coverage.

Section 5-112. Allowable yard space encroachments for accessory buildings or structures.

Accessory buildings or structures shall be permitted to occupy a required yard with the following restrictions:

1. No such accessory structure shall be closer than 20 feet from any street line.
2. An accessory structure may be constructed within 2 feet of an inside lot line or alley line when the entire structure is not less than 60 feet from the front line, and not less than 6 feet from the principal building. The accessory building may be constructed less than 60 feet from the front lot line if it is entirely to the rear of any principal building on the neighboring lot.

Sections 5-112 to 199, inclusive. Reserved.

Sections 5-201 to 206, inclusive. Single Family Residential (R-1)- general provisions.

Section 5-201. Legal boundary descriptions for single family residential R-1.

(Reserved)

Section 5-202. Statement of purpose for single family residential R-1.

This residential district is designed primarily for subdivisions, which have planned streets and community water supply and community waste facilities. It is designed to stabilize and protect residential characteristics of the district and to encourage a suitable family life environment on moderate sized lots.

Section 5-203. Principal permitted uses.

1. The principal permitted uses common to all residential districts.
2. Community homes
3. Home occupations
4. Low-intensive recreational facilities
5. Museums
6. Private/Public Schools
7. Single family detached dwellings (excluding manufactured homes)
8. Accessory uses common to all residential districts.

Section 5-204 Conditional uses.

The conditional uses common to all residential districts; plus

1. Bed and breakfast homes
2. Day cares
2. Institutions
3. Manufactured homes
4. Modular homes
5. Townhomes

Section 5-205 Certain uses lying in Airport Noise Zones declared incompatible and excluded.

Excluded Uses

The uses declared incompatible and excluded for all residential districts in airport noise zones.

Section 5-206 Space limitations.

Building Height Limit

No building shall exceed two and one-half (2 ½) stories, or thirty-five (35) feet.

Required Lot Area

Not less than ten thousand (10,000) square feet, for permitted uses located in a subdivision with planned streets and community water supply and community waste facilities. For religious or cultural uses, one acre is required.

For lots built upon before community water and waste systems are available, required lot area shall be the same as Agriculture District A-C.

Percentage of Lot Coverage

All buildings including accessory buildings shall not cover more than thirty (30) per cent of the area of the lot.

Yards Required

Each lot shall have front, side and rear yards of not less than the depths or widths following:

1. Front yard depth - twenty-five (25) feet measured from the property line or right of way; whichever is applicable.
2. Rear yard depth - twenty-five (25) feet measured from the property line or right of way; whichever is applicable.
3. Side yard width - not less than ten (10) feet, but the sum of the two side yards shall not be less than twenty (20) feet.
4. Minimum setback from the right-of-way of State Highways 14, 34 and 47 shall be 50 feet.

Section 5-207 to 299, inclusive. Reserved. Section 5-301 to 307, inclusive.

Mixed Residential R-2- general provisions.

Section 5-301. Legal boundary descriptions for Mixed Residential District R-2

(Reserved)

Section 5-302. Statement of purpose for Mixed Residential R-2

This residential district is designed primarily for subdivisions, which will have planned streets and community water supply and community waste facilities. It is designed to stabilize and protect residential characteristics of the district and to encourage a suitable family life environment on moderate sized lots.

This district provides for zoning adapted to the existing and future operations of the Village of Holabird. Areas zoned as R-2 on Holabird zoning map shall be in full compliance with provisions relating to section 5-301 to 307.

Section 5-303. Principal permitted uses.

1. The principal permitted uses common to all residential districts as well as uses permitted in R-1.
3. Community homes
4. Home occupations
5. Low-intensive recreational facilities

6. Museums
7. Private/Public Schools
8. Single family detached dwellings
9. Manufactured homes
10. Duplexes/townhomes/modular homes
11. Accessory uses common to all residential districts.

Section 5-304 Conditional uses.

1. The conditional uses common to all residential districts; plus
2. Bed and breakfast homes
2. Day cares
3. Institutions
5. Townhomes/four-plexes/apartment complexes

Section 5-305 Certain uses lying in airport noise zones declared incompatible and excluded.

Excluded Uses

The uses declared incompatible and excluded for all residential districts in airport noise zones.

Section 5-306 Space limitations.

Building Height Limit

No building shall exceed two and one-half (2 ½) stories, or thirty-five (35) feet.

Required Lot Area

Not less than ten thousand (10,000) square feet, for permitted uses located in a subdivision which will have planned streets and community water supply and community waste facilities. For religious or cultural uses one acre is required.

For lots built upon before community water and sewage systems are available, required lot area shall be the same as Agriculture District A-C.

Percentage of Lot Coverage

All buildings including accessory buildings shall not cover more than thirty (30) percent of the area of the lot.

Yards Required

Each lot shall have front, side and rear yards not less than the depths or widths following:

1. Front yard depth - twenty-five (25) feet measured from the property line or right of way; whichever is applicable.
2. Rear yard depth - twenty-five (25) feet measured from the property line or right of way; whichever is applicable.
3. Side yard width - six (6) feet but the sum of the two side yards shall not be less than fifteen (15) feet.
4. Minimum setback from the right-of-way of State Highways 14, 34 and 47 shall be 50 feet.

Sections 5-308 to 399, inclusive. Reserved.

Sections 5-408 to 499, inclusive. Reserved.

Sections 6-101 to 109, inclusive Light Commercial C-1 - general provisions.

Section 6-101. Legal boundary descriptions for Light Commercial.

Reserved

Section 6-102. Statement of purpose for Light Commercial.

To provide a wide range of low intensive retail and service establishments.

Section 6-103. Principal permitted uses, except for uses excluded when located in Airport Noise Zone A.

Retail and service stores of the following types:

1. Drug Stores
2. Public uses
3. Bakeries
4. Animal hospitals
5. Convenience stores
6. Business and Professional offices.
7. Churches
8. Restaurants (Inclusive of those where alcohol may or may not be consumed on premises)
9. Fix-it-shops (Television, radio and small appliance repair).
10. Similar retail stores for convenience of neighboring residents.

Section 6-104. Certain uses declared incompatible and excluded.

The following uses are hereby declared incompatible with the purpose of the local business light commercial district and are hereby expressly excluded:

1. Drive-in theaters.
2. Warehouses.
3. Petroleum bulk storage plants.
4. Residential uses except those classified as caretaker.

Section 6-105. Certain uses lying in Airport Noise Zones declared incompatible and excluded.

Airport noise zone A is a relatively high noise area best suited for agricultural use or industrial use when a high noise level can be tolerated. Any structural development must meet the criteria for height restrictions as well as compatibility.

The following uses are hereby declared incompatible with the purpose of airport noise zone A and are hereby expressly excluded for any part of this district located airport noise zone A:

1. All residential dwellings
2. Churches and similar facilities.
4. Animal clinics.
5. Any other use, which would create electrical interference with radio communications between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, and impair visibility in the vicinity of the airport.

Airport noise zone B is ordinarily a relatively low noise area with no restrictions if development is located in this zone and especially if located in areas of this zone closest to the airport sound control measures should be considered. The reason for the establishment of noise zone B is to notify the general public that such an area is in the established airport noise zones and as such may be subjected to noise pollution.

Section 6-106. Accessory uses.

The following accessory uses are permitted, subject to further restrictions or liberalization's, which are imposed by a specific district.

1. churches, synagogues, chapels, and public buildings, may have identification signs not to exceed 12 sq. ft. in area.
2. Real estate lease or sales signs not over 6 square feet in area and relating to the property on which the sign is located.
3. Signs including illuminated signs.
4. Other accessories normally appurtenant to uses permitted in this district.

Section 6-107. Conditional uses.

1. The Board of Adjustment may allow other light retail and service establishments which are similar to the above listed principal permitted uses.
2. All residential uses.
3. Billboards
4. Communication towers
5. Institutions

Section 6-108. Space limitations.

Building Height

No building shall exceed seventy-five (75) feet.

Required Lot Area

Not less than 1 acre.

Exceptions:

1. Uses not requiring sewage and waste disposal systems shall have an area of not less than (10,000) ten thousand sq. ft.
2. Some permitted uses may be required to have a larger amount of land under State of South Dakota regulations governing sewage and waste disposal systems.

Percentage of Lot coverage

All buildings including accessory buildings shall not cover more than eight (80) percent of the area of the lot. Multiple family buildings and accessory uses shall not cover more than fifty (50) percent of the area of the lot.

Yards required

Each lot shall have front, side and rear yards of not less than the depth or widths following:

1. Front yard depth - forty (40) feet measured from the property line or right of way; whichever is applicable.
2. Rear yard depth - twenty (20) feet measured from the property line or right of way; whichever is applicable.
3. Side yard width - twenty (20) feet, except on corner lots on which the side set back shall be not less than forty (40) feet unless approved by the Board of Adjustment.
4. Minimum setback from the right-of-way of State Highways 14, 34 and 47 shall be fifty (50) feet.

Section 6-109. Requirements for selected uses.

1. Off-street parking and loading shall be provided for all uses established in this district unless otherwise specified herein.
2. Only one building for living purposes shall be permitted on one zoning lot except as otherwise provided herein.

3. All on-site advertising signs shall be located on the zoning lot in such a manner that no portion of the sign shall overhang street right-of-way or adjoining property.

Section 6-110 to 199, inclusive. Reserved.

Sections 6-201 to 209, inclusive. General Commercial C-2 - general provisions.

Section 6-201. Legal boundary descriptions General Commercial.

Reserved

Section 6-202. Statement of purpose for General Commercial.

To provide a wider range of retail and service establishments than provided for in C-1.

Section 6-203. Principal permitted uses, except for uses excluded when located in Airport Noise Zone A.

Retail and service stores of the following types:

1. All uses permitted and permitted by conditional use in C-1
2. Auto/truck sales, service, and rental
3. Institutions
4. Business and commercial schools.
5. Hospitals/clinics
6. Lounges
7. Mini-warehouses
8. Theaters
9. Grocery stores
10. Banks/financial institutions

11. Gasoline service stations and garages for the storage of automobiles, including major repair, body and fender work or painting.
12. Farm/industrial equipment sales
13. Greenhouses, commercial; nursery stock sales yards.
14. Retail and wholesale uses
15. Motels, hotels.
16. Office buildings.
17. Railroad through and spur tracks, but no siding or other terminal type facilities and no service, repair or administrative facilities.
20. Restaurants (alcoholic beverages consumed on premises).
22. Utility substations necessary to the functioning of the utility but not including maintenance facilities and other general system facilities, when located according to the yard space rules set forth in this section for dwelling and having a landscaped or masonry barrier on all sides. Buildings shall conform to all space limits of this district and shall be of such exterior design as to harmonize with nearby properties.
23. Billboards

Section 6-204. Certain uses declared incompatible and excluded.

The following uses are hereby declared incompatible with the purpose of the local business district and are hereby expressly excluded:

1. Any large scale storage facility, industrial development, lay down yard, or facility that generates odor, smoke, or hazardous material.

Section 6-205. Certain uses lying in Airport Noise Zones declared incompatible and excluded.

Airport noise zone A is a relatively high noise area best suited for agricultural use or industrial use when a high noise level can be tolerated. Any structural development must meet the criteria for height restrictions as well as compatibility.

The following uses are hereby declared incompatible with the purpose of airport noise zone A and are hereby expressly excluded for any part of this district located airport noise zone A:

1. All residential dwellings
2. Churches, schools, colleges, rest homes, retirement homes, and similar facilities.
4. Hospitals and clinics.
5. Office buildings.
6. Mortuaries, funeral homes, and funeral chapels.
7. Industrial and manufacturing establishments or other uses which produce smoke interfering with the safe use of the airport.
8. Any other use, which would create electrical interference with radio communications between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, and impair visibility in the vicinity of the airport.

Airport noise zone B is ordinarily a relatively low noise area with no restrictions. Hospitals, churches, auditoriums and such should consider sound control in design of facilities if located in this zone and especially if located in areas of this zone closest to the airport. The reason for the establishment of noise zone B is to notify the general public that such an area is in the established airport noise zones and as such may be subjected to noise pollution.

Section 6-206. Accessory uses.

The following accessory uses are permitted, subject to further restrictions or liberalization's, which are imposed by a specific district.

1. Public, parochial, private schools and colleges, children's homes, churches, synagogues, chapels, and public buildings, may have identification signs not to exceed 12 sq. ft. in area.
2. Real estate lease or sales signs not over 6 square feet in area and relating to the property on which the sign is located.
3. Signs including illuminated signs.
4. Other accessories normally appurtenant to uses permitted in this district.

Section 6-207. Conditional uses.

1. The Board of Adjustment may allow other light retail and service establishments which are similar to the above listed principal permitted uses.
2. Multiple Family Dwellings.

Section 6-208. Space limitations.

Building Height

No building shall exceed seventy-five (75) feet.

Required Lot Area

Not less than 1 acre.

Exceptions:

1. Uses not requiring sewage and waste disposal systems shall have an area of not less than (10,000) ten thousand sq. ft.
2. Some permitted uses may be required to have a larger amount of land under State of South Dakota regulations governing sewage and waste disposal systems.

Percentage of Lot coverage

All buildings including accessory buildings shall not cover more than eight (80) percent of the area of the lot. Multiple family buildings and accessory uses shall not cover more than fifty (50) percent of the area of the lot.

Yards required

Each lot shall have front, side and rear yards of not less than the depth or widths following:

1. Front yard depth - forty (40) feet measured from the property line or right of way; whichever is applicable.
2. Rear yard depth - twenty (20) feet measured from the property line or right of way; whichever is applicable.
3. Side yard width - twenty (20) feet, except on corner lots on which the side set back shall be not less than forty (40) feet unless approved by the Board of Adjustment.

4. Minimum setback from the right-of-way of State Highways 14, 34 and 47 shall be fifty (50) feet.

Section 6-209. Requirements for selected uses.

1. Off-street parking and loading shall be provided for all uses established in this district unless otherwise specified herein.
2. Only one building for living purposes shall be permitted on one zoning lot except as otherwise provided herein.
3. Automobile repair shops and filling stations shall be subject to the following provisions:
 - a. No repair work is performed out-of-doors.
 - b. Pumps, lubricating or other devices shall be at least twenty (20) feet from any street line.
 - c. All gasoline, liquefied petroleum gas, fuel, oil or similar substances that are for resale may be stored underground or above ground provided state and federal requirements are met.
 - d. All automobile parts, dismantled vehicles and similar articles shall be stored within a building.
4. All on-site advertising signs shall be located on the zoning lot in such a manner that no portion of the sign shall overhang street right-of-way or adjoining property.

Section 6-210 to 299, inclusive. Reserved.

Section 7-101 to 109, inclusive. Light Industrial (I-1) - general provisions.

Section 7-101. Legal boundary descriptions for Light Industrial.

Reserved

Section 7-102. Statement of purpose for Light Industrial.

This district provides for a range of industrial and value added agricultural operations permitted in the district for location of those industries, which have not reached a technical stage in processing which renders them free of nuisance factors or where economics precludes construction and operation in a nuisance free manner.

This district provides for zoning adapted to the existing and future operations of the Village of Holabird. Areas zoned as I-1 on Holabird zoning map shall be in full compliance with provisions relating to section 7-101 to 7-109 except that the required yard setbacks shall be under section 5-206, R-1 requirements.

Section 7-103. Principal Permitted Uses.

Any use which can meet the performance standards for this district, except as herein modified.

The following uses shall be allowed in this district:

1. Trucking terminals containing in excess of 4 loading or transfer bays.
2. Confinement, commercial feeding or dairy operations with more than 400 animal units.
3. Meat packing, slaughtering, eviscerating and skinning.
4. Poultry killing, plucking and dressing.
5. Railroad through and spur tracks, sidings, and other terminal type facilities.
6. Rendering of by-products or slaughtering and killing of animals or poultry.
7. Yards for the sale, transfer and temporary holding of livestock.
8. Junk yards, auto parts salvage and auto wrecking yards when such operations are obscured from any street or from any adjacent property by a sturdy, sight obscuring fence in good repair, and under the condition that any burning operations be carried on in an enclosed structure provided with such super-heating devices designed to assure complete combustion as may be approved by the zoning administrator. Fencing must also comply with State of South Dakota and Federal Standards.
9. Lay down yards.

Section 7-104. Certain uses declared incompatible and excluded.

The following uses are hereby declared incompatible with the purpose of the Industrial District and are hereby expressly excluded:

1. Any use, which cannot meet the performance standards, set forth herein.

2. All dwellings and other types of living accommodations shall be prohibited save quarters for a watchman or caretaker shall be permitted as an accessory use for any permitted use.
3. Schools and colleges, except trade schools.
4. Hospitals, clinics, rest homes and other institutions for the housing or care of human beings, except that medical facilities accessory to any industrial operation shall be permitted.
5. Hotels, motel and mobile home parks.

Section 7-105. Accessory uses.

Any accessory use normally appurtenant to a permitted use shall be allowed provided such use shall conform to all performance standards set forth for this district.

Section 7-106. Conditional uses.

Recreational uses which are temporary in nature and do not involve any appreciable amount of fixed construction and which will not interfere with the efficient functioning of the district for its primary purpose of providing for manufacturing and heavy commercial establishments, may be allowed only upon appeal to the Board of Adjustment.

Section 7-107. Performance standards.

1. *Appearance*

Junk, salvage, auto wrecking and similar operations shall be shielded from view from streets and from adjacent properties by means of a sturdy, sight-obscuring fence in good repair. Fencing must also comply with State of South Dakota and Federal Standards.

2. *Fire Hazard*

All flammable substances involved in any activity established in this district shall be handled in conformance with the standards of the National Board of Fire Underwriters, National Fire Protection Association, and any additional regulations of Hyde County.

3. *Noise*

All noise and noise causing activities shall be muffled so that they will not create a disturbance greater than normal peak hour traffic on a major street when observed from any area zoned

residential. Major street noise for comparison purposes shall be measured on the primary state highway nearest the industry. Does not apply to permitted use #3

4. Sewage and Liquid Wastes

No operation shall be carried on which involves the discharge into a sewer, water course or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

5. Air Contaminants

Air contaminants and smoke shall be less dark than designated number 2 on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as number 2 shall be permitted for one 4 minute period in each one-half hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

Particulate matter or dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.

Due to the fact that the possibilities of air contaminants cannot be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any source whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or the general public or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.

6. Odor

Odor causing operations shall be controlled so as to reduce escape of odors to the minimum practical within the limits of technology and economics.

7. Gases

All noxious gases shall be controlled to the extent that they will not be injurious to life and property. The gases sulfur dioxide and hydrogen sulfide shall not exceed 5 parts per million, carbon monoxide shall not exceed 25 parts per million, and nitrous fumes shall not exceed 5 parts per million. All measurements shall be made at the zoning lot line.

8. Vibration

All machines including punch presses and stamping machines shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby zoning lots.

9. Confinement feeding or dairy operation

- a. A general permit from the South Dakota Department of Environmental and Natural Resources is required for all livestock confinement facilities, commercial feedlot or dairy operations of 400 animal units or more shall comply with all requirements of the South Dakota Department Environment and Natural Resources.
- b. Annual statement of compliance to general permit issued by the Department of Natural Resources to the Hyde County Commission.
- c. The minimum separation in Table 1 shall be used in siting a concentrated animal feeding operation. The minimum separation criteria may be increased based on site specific conditions. When a proposed operation does not meet the minimum separation, the application shall be accompanied by one of the following or a combination thereof:
 - i. A signed waiver from each landowner located closer than the minimum separation criteria. No building permit shall be issued until the waivers are filed with the County Register of Deeds.
 - ii. In the absence of a waiver, documentation shall be presented on new technology, management practices, topographic features, soil conditions or other factors which substantiate a reduction in the minimum separation criteria.

Table 1
Concentrated Animal Feeding Operations
Minimum Separations Criteria

	Class A 2,000 AU +	Class B 1,000 AU +	Class C up to 999
Dwellings, Churches, School, and Businesses	5,280 feet plus 880 ft For each additional 250 AU (or portion thereof) over 2,000 AU	2,640 feet plus 660 ft. For each additional 250 AU (or portion thereof) over 1,000 AU	1,320 feet plus, 440 ft For each additional 250 AU (or portion thereof) over 250 AU

Section 7-108. Space limitations.

Building Height Limit

No building shall exceed seventy-five (75) feet in height.

Required Lot Area

Not less than 1 acre.

Exceptions:

1. Uses not requiring sewage and waste disposal systems shall have an area of not less than ten thousand (10,000) sq. ft.
2. Some permitted uses may be required to have a larger amount of land under State of South Dakota regulations governing sewage and waste disposal systems.

Percentage of lot Coverage

Entire lot may be covered except as hereinafter otherwise specified.

Yard Required.

Each lot shall have front, side and rear yards of not less than the depth or widths following:

1. Front Yard Depth - forty (40) feet measured from the property line or right of way; whichever is applicable.
2. Rear Yard Depth - twenty-five (25) feet measured from the property line or right of way; whichever is applicable.
3. Side Yard Width - twenty-five (25) feet, except on corner lots on which the side setback shall be not less than forty (40) feet unless approved by the Board of Adjustment.
4. Minimum setback from the right-of-way of State Highways 14, 34 and 47 shall be fifty (50) feet.

Section 7-109. Requirements for selected uses.

1. Off-street parking and loading shall be provided for all uses established in this district unless otherwise specified herein.
2. Automobile repair shops and filling stations shall be subject to the following provisions:
 - a. Pumps, lubricating or other devices shall be at least twenty (20) feet from any street line.
 - b. All gasoline, liquefied petroleum gas, fuel, oil or similar substances, that are for resale may be stored underground or above ground provided all state and federal requirements be met.

3. All on-site advertising signs which are not attached to or made part of a commercial structure shall be located on the zoning lot in such a manner that no portion of the sign shall overhang street right-of-way or adjoining property.

Section 7- 110 to 199, inclusive. Reserved.

Section 7-201 to 209, inclusive. Heavy Industrial (I-2) - general provisions.

Section 7-201. Legal boundary descriptions for Heavy Industrial.

Reserved

Section 7-202. Statement of purpose for Heavy Industrial.

This district provides for the widest range of industrial and value added agricultural operations permitted. Heavy Industrial will include those operations that pose a greater nuisance, environmental impact, or operations of a hazardous nature.

Section 7-203. Principal Permitted Uses.

Any use which can meet the performance standards for this district, except as herein modified.

The following uses shall be allowed in this district:

1. All permitted uses from Light Industrial.
2. The storage above ground of liquid petroleum products or chemicals of a flammable or noxious nature when stored for resale.
3. Bulk materials storage, sales, and manufacture (cement, sand, gravel, lumber)
4. Electric utility generating
5. Manufacturing of household chemical compounds, disinfectants, insecticides, etc.
6. Manufacture of gases
7. Petroleum and petrochemical production, refining and storage

8. All other like activities

Section 7-204. Certain uses declared incompatible and excluded.

The following uses are hereby declared incompatible with the purpose of the Industrial District and are hereby expressly excluded:

1. Any use, which cannot meet the performance standards, set forth herein.
2. All dwellings and other types of living accommodations shall be prohibited save quarters for a watchman or caretaker shall be permitted as an accessory use for any permitted use.
3. Schools and colleges, except trade schools.
4. Hospitals, clinics, rest homes and other institutions for the housing or care of human beings, except that medical facilities accessory to any industrial operation shall be permitted.
5. Hotels, motel and mobile home parks.

Section 7-205. Accessory uses.

Any accessory use normally appurtenant to a permitted use shall be allowed provided such use shall conform to all performance standards set forth for this district.

Section 7-206. Conditional uses.

Recreational uses which are temporary in nature and do not involve any appreciable amount of fixed construction and which will not interfere with the efficient functioning of the district for its primary purpose of providing for manufacturing and heavy commercial establishments, may be allowed only upon appeal to the Board of Adjustment.

Section 7-207. Performance standards.

1. *Appearance*

Junk, salvage, auto wrecking and similar operations shall be shielded from view from streets and from adjacent properties by means of a sturdy, sight-obscuring fence in good repair. Fencing must also comply with State of South Dakota and Federal Standards.

2. *Fire Hazard*

All flammable substances involved in any activity established in this district shall be handled in conformance with the standards of the National Board of Fire Underwriters, National Fire Protection Association, and any additional regulations of Hyde County.

3. *Noise*

All noise and noise causing activities shall be muffled so that they will not create a disturbance greater than normal peak hour traffic on a major street when observed from any area zoned residential. Major street noise for comparison purposes shall be measured on the primary state highway nearest the industry. Does not apply to permitted use #3

4. *Sewage and Liquid Wastes*

No operation shall be carried on which involves the discharge into a sewer, water course or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

5. *Air Contaminants*

Air contaminants and smoke shall be less dark than designated number 2 on the Ringelman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as number 2 shall be permitted for one 4 minute period in each one-half hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

Particulate matter or dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.

Due to the fact that the possibilities of air contaminants cannot be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any source whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or the general public or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.

6. *Odor*

Odor causing operations shall be controlled so as to reduce escape of odors to the minimum practical within the limits of technology and economics.

7. *Gases*

All noxious gases shall be controlled to the extent that they will not be injurious to life and property. The gases sulfur dioxide and hydrogen sulfide shall not exceed 5 parts per million, carbon monoxide shall not exceed 25 parts per million, and nitrous fumes shall not exceed 5 parts per million. All measurements shall be made at the zoning lot line.

8. Vibration

All machines including punch presses and stamping machines shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby zoning lots.

9. Confinement feeding or dairy operation

- a. A general permit from the South Dakota Department of Environmental and Natural Resources is required for all livestock confinement facilities, commercial feedlot or dairy operations of 400 animal units or more shall comply with all requirements of the South Dakota Department Environment and Natural Resources.
- b. Annual statement of compliance to general permit issued by the Department of Natural Resources to the Hyde County Commission.
- c. The minimum separation in Table 1 shall be used in siting a concentrated animal feeding operation. The minimum separation criteria may be increased based on site specific conditions. When a proposed operation does not meet the minimum separation, the application shall be accompanied by one of the following or a combination thereof:
 - iii. A signed waiver from each landowner located closer than the minimum separation criteria. No building permit shall be issued until the waivers are filed with the County Register of Deeds.
 - iv. In the absence of a waiver, documentation shall be presented on new technology, management practices, topographic features, soil conditions or other factors which substantiate a reduction in the minimum separation criteria.

Table 1
Concentrated Animal Feeding Operations
Minimum Separations Criteria

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Section 7-208. Space limitations.

Building Height Limit

No building shall exceed seventy-five (75) feet in height.

Required Lot Area

Not less than 1 acre.

Exceptions:

1. Uses not requiring sewage and waste disposal systems shall have an area of not less than ten thousand (10,000) sq. ft.
2. Some permitted uses may be required to have a larger amount of land under State of South Dakota regulations governing sewage and waste disposal systems.

Percentage of lot Coverage

Entire lot may be covered except as hereinafter otherwise specified.

Yard Required.

Each lot shall have front, side and rear yards of not less than the depth or widths following:

1. Front Yard Depth - forty (40) feet measured from the property line or right of way; whichever is applicable.
2. Rear Yard Depth - twenty-five (25) feet measured from the property line or right of way; whichever is applicable.
3. Side Yard Width - twenty-five (25) feet, except on corner lots on which the side setback shall be not less than forty (40) feet unless approved by the Board of Adjustment.
4. Minimum setback from the right-of-way of State Highways 14, 34 and 47 shall be fifty (50) feet.

Section 7-209. Requirements for selected uses.

1. Off-street parking and loading shall be provided for all uses established in this district unless otherwise specified herein.

2. Automobile repair shops and filling stations shall be subject to the following provisions:
 - a. Pumps, lubricating or other devices shall be at least twenty (20) feet from any street line.
 - b. All gasoline, liquefied petroleum gas, fuel, oil or similar substances, that are for resale may be stored underground or above ground provided all state and federal requirements be met.

3. All on-site advertising signs which are not attached to or made part of a commercial structure shall be located on the zoning lot in such a manner that no portion of the sign shall overhang street right-of-way or adjoining property.

Section 7-210 to 299, inclusive. Reserved.

Section 8-101 to 105, inclusive Manufactured Home Parks R-MHP - general provisions.

Section 8-101. Districts in which Manufactured Home Parks permitted - procedures for application and issuance of permit.

1. No lot or parcel of land shall be used until and unless a permit has been secured from the zoning administrator. There shall have been filed with the zoning administrator a written application for said permit. Said application shall include the following information:
 - a. A plot showing the location of present and proposed buildings, driveways, proposed location of units and sanitary conveniences.
 - b. A statement relative to water supply, sewage and garbage.
 - c. A copy of the plans and specifications of all proposed buildings.
 - d. The location and legal description of the manufactured home park.

Section 8-102. Issuance of manufactured home park permit by zoning administrator upon certain findings by the Board of Adjustment.

Upon the finding by the Board of Adjustment that the proposed manufactured home park will constitute a development of sustained desirability, that it will not result in an over-intensive use of the land, that it will not result in undue traffic hazards, and not otherwise be detrimental to the

health, safety and welfare of the County, the zoning administrator may issue a permit or permits for the proposed manufactured home park.

Section 8-103. Space limitations.

Building Height Limit

No building shall exceed two and one-half (2 ½) stories, or thirty-five (35) feet.

Required Area for a Manufactured Home Space

Manufactured home spaces shall be provided, consisting of a minimum of six thousand (6,000) square feet for each space, which shall be clearly defined and marked and single units shall comply with requirements of Single Family Residential. The minimum area for any manufactured home park shall be one acre.

Yards Required.

The front and rear of any manufactured home shall not be located closer than fifteen (15) feet from any other manufactured home or from any building within the manufactured home park. The side of any manufactured home shall not be closer than fifteen (15) feet from any other manufactured home or any building within the manufactured home park. All manufactured homes shall be required to be located a minimum of twenty-five (25) feet from all exterior boundaries of the mobile home park. All manufactured homes and accessory buildings are required to be set back 25' from any street or driveway within the manufactured home park.

Section 8-104. Requirements for driveways, vehicular access and parking, and lighting of manufactured home parks.

1. All manufactured home spaces shall abut upon a driveway of not less than twenty-five (25) feet in width, which shall have unobstructed access to a public street or highway, and the sole vehicular access shall not be by an alley, and all dead-end drive-ways shall include adequate vehicular turning space.
2. All driveways within the manufactured home park shall be all weather with a dust-free surface course and lighted at night with electric lamps of not less than one hundred fifty (150) watts each, spaced at intervals of not more than one hundred fifty (150) feet, or by a lighting plan approved by the zoning administrator.

Section 8-105. Requirements for site drainage and grading, underground wiring, fencing and playgrounds for manufactured home parks.

1. The manufactured homes parks shall be located on a well-drained site, properly graded to insure rapid drainage.

2. One or more playgrounds shall be provided as required by the County Commission and of the size approved by them.
3. All wiring in the manufactured home park shall be placed underground.

Section 8-106. Requirements for placement of manufactured homes.

1. Tie-downs shall be placed a minimum at all four corners and/or per manufactures recommendations.
2. Manufactured homes shall be supported as per manufacturer’s recommendations.

Section 8-107. Allowable yard space encroachments for eaves, cornices and architectural features.

Eaves, cornices and projecting architectural features may extend two feet into a required yard space except that eaves may encroach three (3) feet into a yard space when such yard space is seven feet or more in width.

Section 8-108. Allowable yard space encroachments for fire escapes.

Open fire escapes may extend into any required side or rear yard not more than five (5) feet.

Section 8-109. Allowable yard space encroachments for chimneys.

Chimneys when not more than 4 feet wide may extend two feet into any required yard space.

Section 8-110. Allowable yard space encroachments for porches and terraces - other requirements.

Open, uncovered porches or terraces no higher than the first floor above grade on the side of the building to which they are appurtenant and in no event higher than 30 inches above grade of the lot on the side of the building where such porch or terrace is located, may extend into any required yard. No railing or other barrier higher than 36 inches shall be placed around such porch or terrace. Any such porch or terrace when located on a lot at the intersection of two streets or a street and an alley shall comply with the provisions designed to insure proper sight distances as set forth in this ordinance for fences and hedges. Enclosed or covered porches shall be considered part of the building in determination of the size of yard or lot coverage.

Section 8-111. Allowable yard space encroachments for accessory buildings or structures.

Accessory buildings or structures shall be permitted to occupy a required yard with the following restrictions:

1. No such accessory structure shall be closer than 20 feet from any street line.
3. An accessory structure may be constructed within 2 feet of an inside lot line or alley line when the entire structure is not less than 60 feet from the front line, and not less than 6 feet from the principal building. The accessory building may be constructed less than 60 feet from the front lot line if it is entirely to the rear of any principal building on the neighboring lot.

Section 8-112 to 199, inclusive. Reserved.

Section 9-101 to 106, inclusive. Wind Energy Systems (WES)

SECTION 9-101 – Purpose.

The purpose of this ordinance is to ensure that the placement, construction and modification of a Wind Energy System (WES) facility is consistent with the County’s land use policies, to minimize the impact of WES facilities, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the County’s citizens.

SECTION 9-102 - Federal and State Requirements.

All WES facilities shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WES facilities.

SECTION 9-103 - Requirements for Siting Small Wind Energy Systems.

A. Standards.

A Small Wind Energy System shall be a Conditional Use in an Ag district subject to the following requirements:

1. Setbacks.

The minimum setback distance between each wind turbine tower and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, public road right of ways, and dwellings shall be equal to no less than one point one (1.1) times the system height or a minimum of 500 feet; whichever is greater.

The setback from any established dwelling shall be 2640 feet or 4.9 times tower height, whichever is greater; an exception may be granted in the event that all adjoining property owners sign an opt out from the setback requirement. The opt out shall be in written form that is acceptable for recording with the Register of deeds or other County offices. The opt out may result in a setback of no less than 1400 feet minimum from an established dwelling or one point one (1.1) times the system height; whichever is greater.

The setback for any occupied structure and roadways shall be no less than one point one (1.1) times the tower height or 500 feet; whichever is greater.

The setback from any county gravel roads, section line roads, highways and minimum maintenance roads shall be not less than 750 feet or 1.4 times the tower height, whichever is greater.

2. Access.

All ground mounted electrical and control equipment shall be secured to prevent unauthorized access, and the tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

3. Lighting.

A SWES shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

4. Noise.

SWES facilities shall not exceed forty-five (45) decibels of sound, as measured at the closest neighboring established dwelling. The level, however, may be exceeded during short-term events such as utility outages or wind storms.

5. Appearance, Color, Finish.

The SWES shall remain painted or finished in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the conditional use permit.

6. Signs.

All signs, other than the manufacturer’s or installer’s identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a SWES visible from any public road shall be prohibited.

7. Electrical Code Compliance.

A SWES shall comply with all applicable state construction and electrical codes, and the National Electrical Code.

8. Utility Notification.

No SWES shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

B. Permit Requirements.

1. Conditional Use.

- a) A conditional use permit shall be required for the installation of SWES.
- b) The permit shall be accompanied by a plot plan which includes the following:
 - i. Property lines and physical dimensions of the property;
 - ii. Location, dimensions, and types of existing major structures on the property;
 - iii. Location of the proposed SWES;
 - iv. The right-of-way of any public road that is contiguous with the property;
 - v. Any overhead and underground utility lines;
 - vi. Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed);
 - vii. Tower foundation blueprints or drawings;
 - viii. Tower blueprint or drawing;
 - ix. Proof of notification to the utility in the service territory in which the SWES is to be erected.
 - x. The status of all necessary interconnection agreements or studies;
 - xi. Flicker analysis.
 - aa) A Flicker Analysis shall include the duration and location of flicker potential for all receptors and road ways within a one (1) mile radius of each turbine within

a project. The applicant shall provide a site map identifying the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall account for topography but not for obstacles such as accessory structures and trees. Flicker at any receptor shall not exceed thirty (30) hours per year within an established dwelling and forty (40) hours per year from any occupied structure.

2. Expiration.

A permit issued pursuant to this ordinance shall expire if:

- a) The SWES is not installed and functioning within twenty-four (24) months from the date the permit is issued; or
- b) The SWES is out of service or otherwise unused for a continuous 9-month period.

3. Abandonment.

- a) A SWES that is out-of-service for a continuous 9-month period will be deemed to have been abandoned. The Board may issue a Notice of Abandonment to the owner of a SWES that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Board shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.
- b) If the SWES is determined to be abandoned, the owner of the SWES shall remove the wind tower at the owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Board may pursue legal action to have the wind generator removed at the owner's expense.

SECTION 9-104 - Requirements for Siting Large Wind Energy Systems.

A. Standards.

A Large Wind Energy System shall be a Conditional Use in an Ag district subject to the following requirements:

1. Site Clearance.

The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the LWES.

2. Topsoil Protection.

The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.

3. Compaction.

The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.

4. Livestock Protection.

The permittees shall take precautions to protect livestock on the LWES site from project operations during all phases of the project's life.

5. Fences.

The permittees shall promptly replace or repair all fences and gates removed or damaged by project operations during all phases of the project's life unless otherwise negotiated with the fence owner.

6. Roads.

a) Public Roads.

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

WES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WES components. The permittees shall notify the County Zoning Office of such arrangements.

b) Turbine Access Roads.

Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. Access roads shall avoid crossing streams and drainage ways wherever possible. If access roads must be constructed across streams and drainage ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.

c) Private Roads.

The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

7. Control of Dust.

The permittee shall utilize all reasonable measures and practices of construction to control dust during construction.

8. Soil Erosion and Sediment Control Plan.

The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the County Zoning Office. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive re-vegetation plan that uses native plant species to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or bathers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

9. Setbacks.

LWES shall meet the following minimum spacing requirements.

- a) The setback from any established dwelling shall be 2640 feet or 4.9 times tower height, whichever is greater; an exception may be granted in the event that all adjoining property

owners sign an opt out from the setback requirement. The opt out shall be in written form that is acceptable for recording with the Register of deeds or other County offices. The opt out may result in a setback of no less than 1400 feet minimum from an established dwelling or one point one (1.1) the system height; whichever is greater.

b) The setback from any county gravel roads, section line roads, highways and minimum maintenance roads shall be not less than 750 feet or 1.4 times the tower height, whichever is greater.

c) Distance from the exterior boundary of the proposed wind project shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater, unless appropriate opt out has been obtained from all adjoining property owners.

10. Electromagnetic Interference.

The permittees shall not operate the LWES so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the LWES or its operation, the permittees shall take the measures necessary to correct the problem.

11. Lighting.

There shall be no lights on the towers other than what is required by the Federal Aviation Administration (FAA), and in full compliance with FAA regulations; exceptions may be approved for ground maintenance lighting that shall not violate FAA rules and shall not exceed twenty (20) feet from ground level.

12. Turbine Spacing.

The turbines shall be spaced no closer than is allowed by the turbine manufacturer in its approval of the turbine array for warranty purposes.

13. Footprint Minimization.

The permittees shall design and construct the WES so as to minimize the amount of land that is impacted by the WES. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers and monitoring systems shall to the extent practicable be mounted on the foundations used for turbine towers or inside the towers unless otherwise allowed by the landowner on whose property the LWES is constructed.

14. Electrical Cables.

The permittees shall place electrical lines, known as collectors transmitting no more than forty (40) kilovolts, and communication cables underground when located on private property except when total distance of collectors from the substation require an overhead installation due to line loss of current from an underground installation. This paragraph does not apply to feeder lines.

15. Feeder Lines.

The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists or immediately adjacent to the public right-of-way on private property. Changes in routes may be made as long as feeders remain on public rights-of-way or immediately adjacent to the public right-of-way on private property and approval has been obtained from the governmental unit responsible for the affected right-of-way. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement(s) negotiated. The permittees shall submit the site plan and engineering drawings for the feeder lines to the Board before commencing construction.

16. Height from Ground Surface.

The minimum height of blade tips at their lowest possible point shall be twenty-five (25) feet above grade.

17. Towers.

a) Color and Finish.

- i. The finish of the exterior surface shall be non-reflective or matte.
- ii. All towers shall be singular tubular design, unless approved by the Board.

18. Noise.

Noise level produced by the LWES shall not exceed forty-five (45) decibels of sound at the perimeter of occupied residences existing at the time the permit application is filed, unless a signed waiver or easement is obtained from the owner of the residence. The level, however may be exceeded during short-term events such as utility outages or wind storms.

19. Permit Expiration.

The permit shall become void if no substantial construction has been completed within 2 years of issuance.

20. Flicker Analysis

A Flicker Analysis shall include the duration and location of flicker potential for all receptors and road ways within a one (1) mile radius of each turbine within a project. The applicant shall provide a site map identifying the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall account for topography but not for obstacles such as accessory structures and trees. Flicker at any receptor shall not exceed thirty (30) hours per year within an established dwelling and forty (40) hours per year from any occupied structure.

SECTION 9-105 - Required Information for Permit Application.

- A. Boundaries of the site proposed for LWES and associated facilities on United States Geological Survey Map or other map as appropriate.
- B. Map of easements for LWES.
- C. Map of occupied residential structures, business and public buildings within one half mile of the proposed LWES site boundaries.
- D. Preliminary map of sites for LWES, access roads and utility lines. Location of other LWES within five (5) miles of the proposed LWES site.
- E. Project-specific environmental and cultural concerns (e.g. native habitat, rare species, and migratory routes). This information shall be obtained by consulting with the following agencies:
 - 1. South Dakota Department of Game, Fish and Parks;
 - 2. U.S. Fish and Wildlife Service; and
 - 3. South Dakota State Historical Society.

Evidence of such consultation shall be included in the application.

- 1. Project schedule.
- 2. Mitigation measures.
- 3. Status of interconnection studies/agreements.
- 4. Pre-construction Filing. At least forty-five (45) days prior to commencement of construction, the applicant/permittee shall submit final maps depicting the approximate location of the proposed wind turbines, access roads and collector and feeder lines. Upon completion, the applicant shall also supply an “as-built” ALTA

survey indicating that the proposed facilities are in compliance with the setbacks in the permit.

SECTION 9-106 - Decommissioning.

A. Cost Responsibility.

The owner or operator of a LWES is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities. The decommissioning plan shall clearly identify the responsible party.

B. Useful Life.

A Wind Energy System shall be presumed to be at the end of its useful life if the facility generates no electricity for a continuous period of nine (9) months and notice of such shall be made at that time. The presumption may be rebutted by submitting to the Board of Adjustment for approval of a plan outlining the steps and schedule for returning the system to service within three (3) months of the submission.

C. Decommissioning Period.

The facility owner or operator shall begin decommissioning a LWES facility within nine (9) months after the time the facility or turbine reaches the end of its useful life.

D. Decommissioning Requirements.

Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of forty-two (42) inches; and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the LWES. To the extent possible, the site must be restored and reclaimed to the topography and topsoil quality that existed just prior to the beginning of the construction of the commercial wind energy conversion facility or wind turbine. Disturbed earth must be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas be retained.

E. Decommissioning Plan.

Prior to commencement of operation of a LWES facility, the facility owner or operator shall file with the Board of Adjustment the estimated decommissioning cost per turbine, in current dollars at the time of the application, for the proposed facility and a decommissioning plan that describes how the facility owner will ensure that resources are available to pay for

decommissioning the facility at the appropriate time. The Board of Adjustment shall review a plan filed under this section and shall approve or disapprove the plan within six (6) months after the decommissioning plan was filed. The Board of Adjustment may at any time require the owner or operator of a LWES to file a annual report describing how the LWES owner or operator is fulfilling this obligation.

F. Financial Assurance.

The Board of Adjustment shall require performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance that is acceptable to the Board of Adjustments to cover the anticipated costs of decommissioning the LWES facility within any of the first ten (10) years of the project. Unless required prior to the tenth year by the Board, the LWES facility owner or operator shall file the assurance no later than the 10th tenth anniversary of its conditional use permit approval.

G. Failure to Decommission

If the LWES facility owner or operator does not complete decommissioning, the Board of Adjustment may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Board of Adjustment may take such action as may be necessary to decommission a LWES facility and seek additional expenditures necessary to do so from the facility owner.

Section 9-104 to 199, inclusive. Reserved

Sections 10-101 to 106, inclusive. Airport Noise A - general provisions.

Section 10-101. Official Airport Noise Zone Map and Description.

The location, size, shape, and boundaries of the zones to which the provision of the text of this ordinance are applicable, shall be indicated on the Official Airport Noise Zone Map in the Zoning Administrator's Office and by description incorporated herein and by this reference made apart thereof and said map, after being adopted by reference as a part of this ordinance, and so certified by the County Auditor together with the text, shall be maintained by the Zoning Administrator and said map shall be the official zoning map for the purpose of enforcement of this ordinance. In case of doubt or dispute, the description of said zones shall govern.

Section 10-102. Legal boundary descriptions for Airport Noise Zone A.

Reserved.

Section 10-103. Statement of purpose for Airport Noise Zone A.

This zone provides for development around the airport that will allow the highest use of the land, yet will be compatible with airport operations. Airport Noise Zone A is a relatively high noise area best suited for agricultural use or industrial use when a high noise level can be tolerated. This zone limits or restricts the uses, which are permitted for the zoning districts, which lie within the boundaries of Airport Noise Zone A. Any structural development must meet the criteria for height restrictions as well as compatibility.

Section 10-104. Principal permitted uses.

The following are permitted as the principal uses of any parcel of property in the Airport Noise Zone A:

1. Aviation associated activity.
2. Any use, which can meet the purposes and performance standards, set forth for the respective zoning districts, but not specifically excluded or specifically mentioned as belonging in another less restrictive district.

Section 10-105. Certain uses lying in Airport Noise Zone a declared incompatible and excluded:

The following uses are hereby declared incompatible with the purpose of airport noise zone A and are hereby expressly excluded:

1. All residential dwellings.
2. Auditoriums, concert halls, music shells, and outdoor theaters.
3. Churches, schools, colleges, rest homes, retirement homes and similar facilities.
4. Hospitals and clinics.
5. Office buildings.
6. Mortuaries, funeral homes and funeral chapels.
7. Industrial and manufacturing establishments or other uses which produce smoke interfering with the safe use of the airport.
8. Any other use, which would create electrical interference with radio communications between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others result in glare in the eyes of fliers using the airport, impair visibility in the vicinity of the airport.

Section 10-106. Accessory uses.

Any accessory use normally appurtenant to a permitted use shall be allowed provided such a use shall conform to all performance standards set forth under airport zoning.

Sections 10-107 to 199, inclusive. Reserved.

Sections 10-201 to 202, inclusive. Airport Noise Zone B - general provisions.

Section 10-201. Legal boundary descriptions for Airport Noise Zone B.

Reserved.

Section 10-202. Statement of purpose for Airport Noise Zone B.

Airport Noise Zone B ordinarily is a relatively lower noise area with no restrictions. Hospitals, churches, auditoriums and such should consider sound control in design of facilities if located in areas of this zone closest to the airport. The reason for the establishment of Noise Zone B is to notify the general public that such an area is in the established airport approach zones and as such may be subjected to noise pollution.

The following updates were effective 12/23/2019.

- In Section 2-103 the word meteorological was added to the list of towers
- In Section 4-106
 - 6. was changed back to 20 acres from 35 acres for yards required
- In Section 4-107
 - 4. The strike through typographical error was corrected
- In Section 4-203
 - 11. This was deleted
- In Section 4-305
 - 4. Towers defined in Section 2-103 was added
- In Section 4-208
 - 5. Was changed back to 20 acres from 35 acres for yards required

The following updates were effective 9/2/2020

- E. Board of Adjustment
 - The ability to appoint alternates was added