

TABLE OF CONTENTS

ZONING

| <u>Article</u> | <u>Title</u> | <u>Page</u> |
|----------------|--|-------------|
| 1 | Short Title | 1 |
| 2 | Jurisdiction | 2 |
| 3 | Application of District Regulations | 3 |
| 4 | Establishment of Districts | 5 |
| 5 | Agricultural Fringe Protection District (AGFP) | 9 |
| 6 | Agricultural Districts (AG) | 12 |
| 7 | Concentrated Animal Feeding Operation Regulations | 15 |
| 8 | Residential District (R-1) | 29 |
| 9 | Residential District (R-2) | 31 |
| 10 | Lake Front Residential (R-3) | 33 |
| 11 | Commercial District (C) | 35 |
| 12 | Highway Commercial District (HC) | 37 |
| 13 | General Industrial District (I) | 40 |
| 14 | Supplementary District Regulations | 41 |
| 15 | Nonconforming Lots, Nonconforming Uses of Land . . . | 43 |
| 16 | Administrative Procedure and Enforcement | 47 |
| 17 | County Planning Commission | 49 |
| 18 | County Planning Commission – Powers and Duties | 50 |
| 19 | Appeals | 54 |
| 20 | Schedule of Fees, Charges, and Expenses | 55 |
| 21 | Amendments | 56 |
| 22 | Violations, Complaints, Penalties, and Remedies | 57 |
| 23 | Legal Status Provisions | 58 |
| 24 | Public Nuisances | 59 |
| | Appendix A Sub Division Regulations | 63 |
| | Appendix B Zoning Definitions | 77 |

ARTICLE 1

SHORT TITLE

SECTION 101 – Short Title

This ordinance may be known and may be cited and referred to as “the Zoning Ordinances for Edmunds County, South Dakota,” to the same effect as if the full titles were stated.

ARTICLE 2
JURISDICTION

SECTION 201 – Jurisdiction

The provision of this Ordinance shall apply within the unincorporated areas of Edmunds County. County zoning will take precedence where there is no zoning.

SECTION 202 – Provisions of the Ordinance Declared to be Minimum Requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. All provisions of this ordinance, must at a minimum, be met in all circumstance. Whenever a provision of any other ordinance is greater in requirements, that ordinance will govern.

ARTICLE 3

APPLICATION OF DISTRICT REGULATIONS

SECTION 301 – General

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

SECTION 302 – Zoning Applications

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

SECTION 303 – Performance Standards

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

1. to exceed the height or bulk;
2. to accommodate or house a greater number of families;
3. to occupy a greater percentage of lot area; and
4. to have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required; or in any other manner contrary to the provisions of the Ordinance.

SECTION 304 – Open Space or Off-Street Parking or Loading Space

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

SECTION 305 – Yard and Lot Reduction Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots

created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

SECTION 306 – Unclassified or unspecified Uses

Unclassified or unspecified uses may be permitted by conditional use permit by the Board of Zoning Adjustment after the Planning Commission has made a review and recommendation provided that such uses are similar in character to the principle uses permitted in the district.

SECTION 307 – Small Acreages

Notwithstanding any other provisions of this ordinance, small acreages of land shall be defined as any parcel of land measuring less than 40 acres. Such small acreages of land shall be platted by the owner thereof, in accordance with the procedures set out by law for platting of real property, prior to the Edmunds County Register of Deeds recording any deed or document relating to any above such parcel.

ARTICLE 4

ESTABLISHMENT OF DISTRICTS

SECTION 401 – Districts Established

For the purposes of this Ordinance, there are hereby created eight (8) types of districts by which the jurisdictional area defined in ARTICLE 2 shall be divided:

Agricultural Fringe Protection District (AGFP)

Agricultural District (AG)

Residential District (R-1)

Residential District (R-2)

Lake Front Residential District (R-3)

Commercial District (C)

Highway Commercial District (HC)

General Industrial District (I)

Chapter 4

Official Zoning Map and Boundary Interpretation

402 General. The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Title 4 enacted by **Revised Ordinance No. 2001-4-1** of Edmunds County, South Dakota," together with date of the adoption of this revised Ordinance.

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

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

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 22.

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

404 Zoning Map Replacement. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of number of changes and additions, the Board of county Commissioners may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the

effect of amending the original Official Zoning Map, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words:

“This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted /date of adoption of zoning map being replaced/ as part of **Ordinance No 2001-5-1** of Edmunds County, South Dakota.” Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

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

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following city limits shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the County Planning Commission and/or Board of Adjustment shall interpret the district boundaries;

8. Where a district boundary line divides a lot, which was in single ownership at the time of passage of this Ordinance, the County Planning Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

EDMUNDS COUNTY

By _____
Elroy Eske, Chairman
Edmunds County Board of
Commissioners

ATTEST:

Keith Schurr, Edmunds
County Auditor

First Reading: May 1, 2001
Second Reading: May 15, 2001
Approved and Adopted: May 15, 2001
Published: May 23 & 24, 2001
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ARTICLE 5

AGRICULTURAL FRINGE PROTECTION DISTRICT (AGFP)

SECTION 501 – Statement of Intent

The intent of this District is to protect land adjacent to communities from premature development that would inhibit orderly growth and development within the fringe area while maintaining normal agricultural undertakings.

SECTION 502 – Permitted Uses and Structures

The following uses and structures shall be permitted in Agricultural Fringe Protection District:

1. Any form of agriculture including the raising of crop, horticulture, animal husbandry, and kennels;
2. Dwellings and their normal accessory building including mobile homes;
3. Railroad track right-of-way;
4. Living quarters of persons employed on premises;
5. Roadside produce stands in conjunction with a bonafide farm operation on the premises; and
6. Artificial lakes.

SECTION 503 – Conditional Uses

After notice and appropriate safeguards, the Planning Commission may permit the following conditional uses in the AGFP District, providing no new facilities are closer than one (1) mile from any occupied dwelling unless written permission is granted by the owner or owners of such dwelling:

1. Fairgrounds, racetracks, and amusement parks;
2. Utility substations;
3. Airports;
4. Cemeteries;

5. Golf courses, country clubs, and golf-driving ranges;
6. Amphitheaters, stadiums, drive-in movies, arenas, and field houses;
7. Go-cart tracks, riding stables, playfields, athletic fields, bowling alleys, swimming pools, automobile parking;
8. Public parks, public recreational areas, churches, and schools;
9. Commercial feedlots;
10. Operation and maintenance terminals for trucks and other equipment;
11. Junkyards and salvage yards provided they are set back one thousand (1,000) feet from state and federal right-of-way; if not, they must be screened and not visible to main traveled ways;
12. Sanitary landfill sites in accordance with the South Dakota Department of Environmental Protection Agency regulations; and
13. Home occupations.

SECTION 504 – Maximum Number of Approaches

There shall be no more than one (1) access approach on a public road or highway per one quarter (1/4) mile on each side of the road.

SECTION 505 – Minimum Shelterbelt Setback

Shelterbelts, field belts, and living snow fences consisting of one or more rows when parallel to the right-of-way shall be set back a minimum of one hundred fifty (150) feet from the right-of-way line. Shelterbelts for existing farmstead purposes are exempt from minimum setback requirements. Any new or replacement shelterbelts, field belts, or living snow fences should follow the minimum requirements if the surrounding area allows it.

SECTION 506 – Minimum Shelterbelt Setback

There shall be a minimum set back from the property line of not less than seventy-five (75) feet set back from public road right-of-ways. The minimum lot area shall be five (5) acres. There shall be a frontage of not less than three hundred (300) feet across the front yard and a side yard not less than twenty (20) feet.

SECTION 507 – Private Sewage Disposal Systems

All private sewage disposal systems will comply with Department of Environmental Protection Agency regulations, and their updates as promulgated in Chapter 34; 04; 01 General Authority 46-25-107; Law Implemented 46-25-28 through 46-25-47.

All sewage disposal systems are to be installed by a certified contractor. If certified owner installed, it will be up to the discretion of the Edmunds County Planning Commission to have the system inspected. Individuals will be required to submit a plot plan of the septic system to the Edmunds County Planning Commission, for approval prior to installation. If found to be in violation, it will be reported to the Department of Health – Office of Environment and Natural Resources, Environmental Protection Department.

ARTICLE 6

AGRICULTURAL DISTRICTS (AG)

SECTION 601 – Statement of Intent

The intent of Agricultural Districts is to protect the agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment should be continued and to limit residential commercial and industrial development to those areas where they are best suited for reasons of practicality.

SECTION 602 – Permitted Uses and Structures

The following uses and structures shall be permitted in Agricultural Districts:

1. Any form of agriculture including the raising of crop, horticulture, animal husbandry, and kennels;
2. Dwellings and their normal accessory buildings including mobile homes;
3. Railroad track right-of-way;
4. Living quarters of persons employed on premises;
5. Roadside produce stands in conjunction with a bonafide farm operation on the premises;
6. Artificial lakes;
7. Public meeting facilities such as schools or churches provided they are subordinated to and complementary with the agricultural activities of the district;
8. All utility systems necessary to service the district; and
9. The sale of seed.
10. Home Occupations;
11. Hunting Lodges and Bed & Breakfast Inns;

SECTION 603 – Conditional Uses

After notice and appropriate safeguards, the Planning Commission may permit the following conditional uses in the AG District:

1. Fairgrounds, racetracks, and amusement parks;
2. Utility substations;
3. Airports;
4. Cemeteries;
5. Golf courses, country clubs, and golf-driving ranges;
6. Amphitheaters, stadiums, drive-in movies, arenas, and field houses;
7. Go-cart tracks, riding stables, playfields, athletic fields, bowling alleys, swimming pools, automobile parking;
8. Public parks, public recreational areas, churches, and schools;
9. Concentrated animal feeding operation;
10. Operation and maintenance terminals for trucks and other equipment;
11. Junkyards and salvage yards provided they are set back one thousand (1,000) feet from state and federal right-of-way; if not, they must be screened and not visible to main traveled ways;
12. Sanitary landfill sites in accordance with the South Dakota Department of Environmental Protection Agency regulations, and
13. Rifle shooting range;

SECTION 604 – Determination of Uses and Structures

The uses and structures specifically listed in this chapter are not considered to be the only conceivable uses of agricultural land. However, these uses listed do represent the types of uses which may be considered. If an applicant desires to construct a building or conduct a use which is not specifically listed, such applicant shall carry the burden of proof to the board of adjustment that his/her request is the type of use allowed in the agricultural district, is not more compatible with a different zoning district, and it does in no way violate the intent of this chapter.

SECTION 605 – Approaches

Before placing or removing an approach along any County road, an applicant must get written approval from the County Highway Superintendent. After the Highway Superintendent gives written permission, the application must then be submitted to the County Planning & Zoning Board to take action on whether or not the placing or removing of the approach will be permitted. Written permission forms can be obtained from the Zoning Officer.

SECTION 606 – Minimum Yard Requirements (in Agricultural District “AG”).

There shall be a minimum setback from the property line of not less than seventy-five (75) feet from public road right-of-ways. The minimum lot area shall be one (1) acre. There shall be a frontage of not less than one hundred-fifty (150) feet across the front yard.

SECTION 607 – Minimum Shelterbelt Setback

Any new trees, shelterbelts, field belts, or living snow fences shall be set back a minimum of sixty-seven (67) feet from the right-of-way line. Replacement trees in existing shelterbelts are exempt from minimum setback requirements as long as its nonconformance is not increased.

If applicant is requesting setback to be closer than sixty-seven (67) feet, he/she will need to provide the County Planning & Zoning Commission with written permission from the appropriate authority as follows:

1. Township road – written permission from the township board.
2. State Highway – written permission from the State DOT authority.
3. County road – written permission from the County Highway Superintendent.

The Planning & Zoning Commission will then take action on whether to permit the requested setback. Written permission forms can be obtained from the Zoning Officer.

SECTION 608 – Private Sewage Disposal Systems

All private sewage disposal systems will comply with Department of Environmental Protection Agency regulations, and their updates as promulgated in Chapter 34; 04; 01 General Authority 46-25-107; Law Implemented 46-25-28 through 46-25-47.

ARTICLE 7

CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS

SECTION 701 – Intent

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

It is the intention of the Edmunds County Planning Commission in the enforcement of this ordinance that when an operator of an existing Concentrated Animal Feeding Operation applies for a permit to expand to another class level, the standards that apply to the expansion will not be applied to existing structures that were built in compliance with accepted industry standards in existence at the time of the construction of such facilities.

SECTION 702 – Definitions

1. 25-year, 24-hour Storm Event – The amount of rainfall in a 24-hour period expected to occur only once every 25 years. Typically, the 25-year, 24-hour storm event is about 5 inches in Edmunds County.
2. Anaerobic Lagoon – 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 gases.

3. Animal Feeding Operation Structure- An anaerobic lagoon, formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building.
4. Animal Manure – Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.
5. Animal Unit – See page 18.
6. Applicant – An individual, a corporation, a group of individuals, partnership, joint venture, owner, or any other business entity having change or control of one or more concentrated animal feeding operations.
7. Aquifer – A geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.
8. Best Management Practices (BMP) – 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.
9. Bypass – The intentional diversion of waste streams from any portion of a treatment facility.
10. A Chronic or Catastrophic Event – A single precipitation event, ore a series of - rain fall events in a short period of time, that totals or exceeds the volume of a 25-year, 24-hour storm event. The event includes tornadoes, or other catastrophic conditions. The event would directly result in, or cause, an overflow from the containment structure or lagoon that receives and contains runoff from an open lot.
11. Common Ownership – A single, corporate, cooperate, cooperative or other joint operation or venture.
12. Concentrated Animal Feeding Operation (CAFO) – See page 19.
13. Confinement Feeding Operation – A totally roofed animal feeding operation in which wastes are stored or removed as a liquid or semi-liquid.
14. Confinement Feeding Operation Structure – A formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon.

15. Domestic Animal – 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 mules.
16. Earthen Manure Storage Basin – An earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are removed at least once each year.
17. Established Building Site – An established building site shall have been used in the past as a farmstead for a normal farming operation. Any residence established for more than ten (10) years shall become an established building site.
18. Established Residence – Any residence established by a personal presence, in a fixed and permanent dwelling and an intention to remain there.
19. Feedlot Operator – 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.
20. Formed Manure Storage Structure – 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.
21. Housed Lot – A 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 building.
22. Letter of Assurances – A list of conditions signed by the applicant for a permit acknowledging agreement to follow the condition of the permit.
23. Man-made - A pipeline, ditch, drain, tile terrace, irrigation system, machine, or other object that carries manure, wastewater, or runoff into waters of the state.
24. Manure Management System – Any piping, containment structures, and disposal appurtenances associated with the collection, storage, treatment, and disposal of manure or wastewater at a concentrated animal feeding operation.
25. No-till Cropland – Land which is subject to a conservation farming practice: where the soil is left undisturbed from harvest to planting; where planting or drilling is done in a narrow seedbed or slot created by coulters, row cleaners, disk openers, or in-row chisel; and where this conservation practice has been ongoing

for at least four consecutive years to establish the soil characteristics necessary to reduce or eliminate erosion from runoff.

26. Open Concentrated Animal Feeding Operation – An un-roofed or partially roofed animal feeding operation in which no crop, vegetation, forage growth or post-harvest residues are maintained during the period that animals are confined in the operation.
27. Open Lot (Agriculture) – 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.
28. Permit – Required by these regulations unless stated otherwise.
29. Processing Generated Wastewater – Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.
30. Processing Wastewater – Any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the animal feeding operation. The term includes runoff from an open lot.
31. Producer – The owner or operator of the concentrated livestock feeding operation.
32. Sediment Basin – A basin constructed to trap and store water-born sediment and debris.
33. Setback – For purposes of the CAFO ordinance, setbacks for established residences will be determined as the horizontal distance measured from the wall line of a neighboring existing residential structure to the wall line of the proposed CAFO's lagoon/waste facility or lot yard pen, whichever is less.
34. Severe Property Damage – Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
35. Shall - The condition is an enforceable requirement of this permit.

36. Shallow Aquifer – An aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.
37. Shallow Well – A well, which is located in a shallow aquifer.
38. Should – The condition is a recommendation. If violations of the permit occur, the Board of Adjustment will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.
39. Significant Contributor of Pollution – To determine if a feedlot meets this definition, the following factors are considered:
- a. Size of feeding operation and amount of manure reaching waters of the state;
 - b. Location of the feeding operation in relation to waters of the state;
 - c. Means of conveyance of manure and process wastewater into waters of the state; and
 - d. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal manure and process wastewater into waters of the state.
40. Solid Waste – (reference SDCL 34A-6-1.3, 17) – Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations and from community activities, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1989, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1989.
41. Solid Waste Facility or Solid Waste Disposal Facility (reference SDCL 34A-6-1.3, 18) – All facilities and appurtenances connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained or operated to facilitate the disposal or storage of solid waste.

42. Solid Waste Management System (reference SDCL 34A-6-1.3, 19) – The entire process of storage, collection, transportation, processing and disposal of solid wastes by any person.
43. Conditional Use – A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as conditional uses, as specific provisions for such exceptions is made in these zoning regulations. The Board of Adjustment may, after notice and hearing, revoke a conditional use in the event of a violation of any of such conditions. In addition, the conditional use permit may not be transferred during any violation.
44. Unauthorized Releases – The discharge of water from the lower end of the treatment or containment system through a release structure or over or through retention dikes. An unauthorized release is distinguished from a bypass in that a bypass discharges wastewater prior to any treatment or containment.
45. Water of the State – All waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.
46. Zoning Complaints – All zoning complaints must be in writing and signed.

SECTION 703 – Animals Units

Animal species and number of a species required to equal 500, 1,000 and 2,000 animal units. Note that these figures relate to inventory rather than annual production. Other animal species equivalents, which are not listed, will be based on species' waste production.

**EQUIVALENT NUMBER OF
A SPECIES TO EQUAL:**

| <u>ANIMAL SPECIES</u> | <u>500 AU</u> | <u>1,000 AU</u> | <u>2,000 AU</u> | <u>ANIMAL UNIT EQUIVALENT SPECIES/AU</u> |
|----------------------------|---------------|-----------------|-----------------|--|
| Feeder or Slaughter Cattle | 500 hd | 1,000 hd | 2,000 hd | 1.0 |

| | | | | |
|---|-----------|------------|------------|-------|
| Mature Dairy Cattle | 350 hd | 700 hd | 1,400 hd | 1.4 |
| Calves (up to 600 lbs) | 1,250 hd | 2,500 hd | 5,000 hd | 0.4 |
| Finisher Swine (over 55 lbs) | 1,250 hd | 2,500 hd | 5,000 hd | 0.4 |
| Nursery Swine (less than 55 lbs) | 5,000 hd | 10,000 hd | 20,000 hd | 0.1 |
| Farrow-to-Finish (sows) | 135 hd | 270 hd | 540 hd | 3.7 |
| Swine Production Unit (Sows Breeding, Gestating & Farrowing) | 1,065 hd | 2,130 hd | 4,260 hd | 0.47 |
| Horses | 250 hd | 500 hd | 1,000 hd | 2.0 |
| Sheep | 5,000 hd | 10,000 hd | 20,000 hd | 0.1 |
| Turkeys | 27,750 hd | 55,000 hd | 110,000 hd | 0.018 |
| Laying Hens and Broilers (continuous overflow watering in facility) | 50,000 hd | 100,000 hd | 200,000 hd | 0.01 |
| Laying Hens and Broilers (liquid handling system in confinement facility) | 15,150 hd | 30,000 hd | 60,000 hd | 0.033 |
| Ducks | 2,500 hd | 5,000 hd | 10,000 hd | 0.2 |

SECTION 704 – Classes of Concentrated Animal Feeding Operations

A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where animal have been, are, or will be stabled or confined for a total of 45 days or more during any 12-month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility. Two or more animal feeding operations under common ownership are a single animal operation if they adjoin in each other, or if they use a common area, or system for disposal of manure.

For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into the following classes:

ANIMAL UNITS

| | |
|---------|----------------|
| Class A | 2,000 or more |
| Class B | 1,000 to 1,999 |

SECTION 705 – Concentrated Animal Feeding Operation Permit Requirements

Owners of Class A, and Class B Concentrated Animal Feeding Operations are required to complete a permit application whenever any of the following occur:

1. A new Concentrated Animal Feeding Operation is proposed where one does not exist.
2. An expansion is proposed beyond what a current permit allows.
3. A change in ownership, or transfer of control.
4. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.
5. A signed complaint has been received by the County Zoning Officer or South Dakota Department of Environment and Natural Resources and after inspection reveals that the Concentrated Animal Feeding Operation is in violation of County or State regulations.

SECTION 706 – Concentrated Animal Feeding Operation Control Requirements

1. No Significant Contribution of Pollution

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

2. State General Permit

Class A and B Concentrated Animal Feeding Operations shall obtain a State General Permit pertaining to the animal species of the concentrated Animal Feeding Operation. A County permit may be approved or denied conditioned on receiving a State permit.

3. Nutrient Management Plan

- a. Classes A, and B Concentrated Animal Feeding Operation shall submit a Nutrient Management Plan. The applicant shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and

protection of surface and ground water. The South Dakota Department of Environment & Natural Resources must approve the plan prior to land application of any wastes. Due to crop rotation, site changes, and other operational changes, the producer should update the plan annually to reflect the current operation and crops grown on the application sites. The applicant shall collect, store, and dispose of liquid and solid manure according to recognized practices of good agricultural management. The economic benefits derived from agricultural operations carried out at the land disposal site are secondary to the proper and safe disposal of the manure.

- b. The Nutrient Management Plan is a conservation system for an animal feeding operation. It describes practices and management activities on how best to utilize manure as a fertilizer resource while protecting surface and ground water. The plan deal specifically with managing the amount, source, placement, and timing of the application of manure nutrients to the land. The use of other nutrient sources (i.e. commercial fertilizer) also must be taken into account when planning manure applications. All nutrient management plans developed must meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standard (590) and all applicable DENR and Edmunds County Zoning standards.
- c. The applicant must maintain records to show compliance with the plan.
- d. The plan must comply with County Manure Application Setbacks.
- e. Land spreading agreements shall be provided if applicant does not have minimum acreage to apply animal manure.

SECTION 707 – Manure Management and Operations shall submit a Manure Management and Operation Plan.

- 1. Plan must include:
 - a. The location and specifics of proposed animal manure facilities.
 - b. The operation procedures and maintenance of manure facilities.
 - c. Plans and specifications must be prepared or approved by a registered professional engineer, or a South Dakota licensed Natural Resource Conservation Service (NRCS) engineer. Waste treatment facilities will require inspection by an engineer and as-built plans to be submitted to the County Zoning Officer.
 - d. Animal manure shall not be stored longer than two years.

- e. Manure containment structures shall provide for a minimum design volume of 270 days of storage. The Edmunds County Planning Commission may reduce the number of days of storage if deemed appropriate.
 - f. Producers shall keep records on manure applications on individual fields which document acceptable manure and nutrient management practices have been followed. These records shall include soils test results for surface two feet of soil, actual and projected crop yields, nutrient analysis of manure, and information about date, rate and method of manure applications for individual fields.
2. As a condition of the permit, the Edmunds County Planning Commission may require the producer to participate in environmental training programs and become a certified livestock manager.

SECTION 708 – Management Plan for Fly and Odor Control

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

1. Operational plans for manure collection, storage treatment and use must be kept updated and implemented.
2. Methods to be utilized to dispose of dead animals should be included in the management plan.
3. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds and/or lagoons.
4. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
5. Store solid manure in containment areas having good drainage to minimize odor production.
6. Remove manure from open pens as frequently as possible to minimize odor production.
7. Consider use of covers on open storage systems for liquid manure systems to reduce odor production.

8. Avoid spreading manure on weekends, holidays, and evenings during warm season when neighbors may be involved in outdoor recreation activities.
9. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.

SECTION 709 – Suggested Setbacks and Separation Distance for new Concentrated Animal Feeding Operations and those Expanding by more Animal Units than a current permit allows.

SUGGESTED MINIMUM SETBACKS

| | <u>CLASS A</u> | <u>CLASS B</u> |
|--|--|----------------|
| Established Residences | 2, 640 feet | 1,760 feet |
| Churches, Businesses and Commercially Zoned Areas | 2,640 ft. | 2,640 ft. |
| Incorporated Municipality Limits | 5,280 ft. Plus 1,000 Feet for Each add'l 1,000 units | 5,280 ft. |
| Private Wells Other than the operator | 2,640 feet | 1,760 feet |
| Lakes and Streams Classified as Fisheries as Identified by the State | 500 feet | 500 feet |
| Federal, State & County Road ROW Confinement | 300 feet | 300 feet |
| Federal, State & County Road ROW Open Lot | 150 feet | 150 feet |
| Township Road ROW Houses | 150 feet | 150 feet |
| Township Road ROW Open Lot | 150 feet | 150 feet |

Each application for a new or expanded Concentrated Animal Feeding Operation (CAFO) will be reviewed by the Edmunds County Planning Commission on a site specific basis. The Edmunds County Planning Commission reserves the right to increase or decrease suggested setbacks and separation distance on a site specific review, based on one or more of the following considerations.

Increase Recommended Separation Distance

1. A concentration of CAFOs in the area exists or would occur which may pose an air or water quality concern.
2. Due to topography and prevailing wind direction, additional setback and separation distance is appropriate to safeguard air or water quality.
3. A Concentrated Animal Feeding Operation is in excess of 5,000 animal units.

Decrease Recommended Separation Distance

1. Due to the type of waste handling and management of CAFO little or no impact on adjacent property is expected.
2. Due to topography and/or prevailing wind direction little or no impact on adjacent property is expected.
3. Due to limited number of animal units no adverse impacts are expected.

SECTION 710 – Standards for Special Exceptions

1. The Edmunds County Planning Commission may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.
2. The Edmunds County Planning Commission may impose, in addition to the standards and requirements set forth in these regulations additional conditions which the Edmunds County Planning commission considers necessary to protect the public health, safety and welfare.
3. Special exceptions shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are being adhered to.
4. When considering an application, the Edmunds County Planning Commission will take into consideration current and past violations relating to Concentrated Animal Feeding Operations that the applicant has an interest in.

5. Permit applicants will be required to file a letter of assurances as required by the Edmunds County Planning Commission. The letter of assurances will be prepared by the County Zoning Officer and signed by both the applicant and the County Zoning Officer.
6. In the event of a discharge (as defined by SDCL 34A-2B-1) of manure or other materials or wastes associated with a CAFO, the permit holder shall cooperate fully with and comply with all requirements of the South Dakota Department of Environment and Natural Resources and such permit holder shall take all steps necessary to clean up and eliminate such discharge at the sole expense of the permit holder and/or its insurance carrier. Failure to comply with the requirements of this paragraph shall be grounds for cancellation of the Conditional Use Permit.
7. The permit holder shall at all times properly dispose of dead livestock consistent with the rules, regulations and directives of the South Dakota Animal Industry Board of the Department of Agriculture. Failure to comply with such rules, regulations or directives shall be grounds for cancellation of the Conditional Use Permit.
8. The permit holder shall notify Edmunds County in writing in the event of closure of the animal confinement operation. Included in the notification shall be: plans for cleaning the buildings, waste system and emptying of the holding pond, storage pit or lagoon.

SECTION 711 – Information Required for Class A and B Concentrated Animal Feeding Operation Permit.

1. Owner's name, addresses and telephone numbers.
2. Legal descriptions of site and site plan.
3. Number and type of animals
4. Nutrient management plan.
5. Manure management and operation plan.
6. Management plan for fly and odor control.
7. Information on ability to meet suggested setbacks and separation distance, including site plan to scale.
8. General permit from South Dakota Department of Environment & Natural Resources if available for animal species.

9. Review of plans and specifications and nutrient management plan by the South Dakota Department of Environment & Natural Resources.
10. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.
11. Notification to whoever maintains the access road (township, county, or state).
Notification to public water supply officials.
12. Any other information as contained in the application and requested by the County Zoning Officer.

ARTICLE 8

RESIDENTIAL DISTRICT (R-1)

SECTION 801 – Intent

The intent of Residential District (R-1) is to provide for residential uses of varying types and other compatible uses in a pleasant and stable environment.

SECTION 802 – Permitted Uses and Structures

1. Single-family dwellings;
2. Noncommercial horticultural uses;
3. Home occupations and professional offices;
4. Mobile Homes
5. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

SECTION 803 – Conditional Uses

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the County Planning Commission may permit as a conditional use in the Residential District (R-1):

1. Multiple-family dwellings;
2. Mobile home parks;
3. Churches, synagogues, and temples;
4. Nursery, primary, intermediate, and secondary schools;
5. Public recreational uses and park facilities;
6. Golf courses and country clubs;
7. Cemeteries
8. Utility substations;

9. Convalescent, nursing, and rest homes;
10. Medical and other health facilities; and
11. Governmental services.

SECTION 804 – Minimum Lot Requirements

The minimum lot area shall be seven thousand (7,000) square feet for single and multi-family dwellings. The minimum lot width shall be fifty (50) feet.

SECTION 805 – Minimum Yard Requirements

There shall be a front yard setback of not less than a depth of twenty-five (25) feet. There shall be a rear yard setback of not less than a depth of seven (7) feet. Each side yard setback shall not be less than seven (7) feet. All distances shall be measured from the outer edge of the property line.

ARTICLE 9

RESIDENTIAL DISTRICT (R-2)

SECTION 901 – Intent

The intent is to provide for residential uses of all types and other compatible uses in a pleasant and stable environment.

SECTION 902 – Permitted Uses and Structures

1. Single-family dwellings;
2. Multi-family dwellings;
3. Mobile homes;
4. Noncommercial horticultural uses;
5. Home occupations and professional offices; and
6. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this ordinance.

SECTION 903 – Conditional Uses

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the County Planning Commission may permit as a conditional use in the Residential District (R-2):

1. Churches, synagogues, and temples;
2. Nursery, primary, intermediate, and secondary schools;
3. Public recreational uses and park facilities;
4. Golf courses and country clubs;
5. Cemeteries;
6. Utility substations;
7. Convalescent, nursing, and rest homes;

8. Medical and other health facilities;
9. Governmental services; and
10. Commercial uses.

SECTION 904 – Minimum Lot Requirements

The minimum lot area shall be seven thousand (7,000) square feet for single and multi-family dwellings. The minimum lot width shall be fifty (50) feet.

SECTION 905 – Minimum Yard Requirements

There shall be a front yard setback of not less than a depth of twenty-five (25) feet. There shall be a rear yard setback of not less than a depth of seven (7) feet. Each side yard setback shall not be less than seven (7) feet. All distances shall be measured from the outer edge of the property line.

ARTICLE 10

LAKE FRONT RESIDENTIAL (R-3)

SECTION 1001 – Intent

The intent of the Lake Front Residential District (R-3) is to provide for residential uses of shoreline land without altering natural surroundings of the District.

SECTION 1002 – Permitted Uses and Structures

1. Single-family residential usage including mobile homes;
2. Noncommercial horticultural uses; and
3. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this District.

SECTION 1003 – Conditional Uses

After the provision of this Ordinance relating to conditional uses have been fulfilled, the County Planning Commission may permit as a conditional use in the Lake Front Residential (R-3):

1. Golf courses and country clubs;
2. Resorts;
3. Grocery, convenience, and sporting goods stores; and
4. Home occupations.

SECTION 1004 – Minimum Lot Requirements

Each lot shall have a depth of not less than one hundred fifty (150) feet and shall have a shoreline frontage width of not less than fifty (50) feet. The minimum lot road frontage shall not be less than fifty (50) feet in width. All lots without shoreline frontage shall have a minimum width of fifty (50) feet and a minimum depth of one hundred fifty (150) feet.

SECTION 1005 – Minimum Yard Requirements

Each structure, excluding boathouses, shall be setback not less than fifty (50) feet from the normal high water mark. The road setback shall not be less than fifty (50) feet from the federal and state highways and not less than thirty (30) feet from other roads. Each side yard shall not be less than seven (7) feet as measured from the property line of the lot in question. Said seven (7) feet shall be measured from the property's edge to the structure's main wall allowing no more than a two (2) foot overhang on the structure's roof. Boathouses are not to exceed 12 feet in height.

SECTION 1005 – Service Roads

Service roads may be required at the discretion of the County Planning Commission.

SECTION 1006 – Private Sewage Disposal Systems

All private sewage disposal systems will comply with Department of Environmental Protection Agency regulations, and their updates as promulgated in Chapter 34;04;01 General Authority 46-25-107; Law Implemented 46-25-28 through 46-25-47.

All sewage disposal systems are to be installed by a certified contractor. If certified owner installed, it will be up to the discretion of the Edmunds County Planning Commission to have the system inspected. Individuals will be required to submit a plot plan of the septic system to the Edmunds County Planning commission, for approval prior to installation. If found to be in violation, it would be reported to the Department of Health – Office of Environment and Natural Resources, Environmental Protection Department.

SECTION 1007 – Permits Required

No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the County Zoning Officer. Additionally, all structures moved into the Lake Front Residential District must be brought up to code within one (1) year of permit issuance or shall be removed by the owner of such property. Failure of compliance shall constitute a violation of this ordinance.

ARTICLE 11

COMMERCIAL DISTRICT (C)

SECTION 1101 – Intent

The intent of the Commercial District (C) is to provide a commercial area for those establishments serving the general shopping need of the trade area and in particular, those establishments customarily oriented to the pedestrian shopper. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities and to provide neighborhood commercial convenience areas.

SECTION 1102 – Permitted Uses and Structures

The following uses and structures shall be permitted in the Commercial District (C):

1. All retail sales and services;
2. Finance, insurance, and real estate services;
3. Lodges and fraternal organization;
4. Wholesale trade;
5. Eating and drinking places;
6. Public buildings and grounds;
7. Churches, welfare, and charitable services;
8. Other uses which, in the opinion of the County Planning Commission, are in the same general character as those enumerated in this Section;
9. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this District; and
10. Rental storage units.

SECTION 1103 – Conditional Uses

After the provisions of this Ordinance relating to Conditional Uses have been fulfilled, the County Planning Commission may permit as conditional uses in the Commercial District (C):

1. Grain Elevators;
2. Other trade and service uses which are similar to the permitted uses and which are in harmony with the intent of this Ordinance;
3. Structures containing both commercial and residential uses; and
4. Multi-family and single-family dwelling (excluding manufactured homes).

SECTION 1104 – Minimum Lot Requirements

The minimum lot area shall be two thousand four hundred (2,400) square feet. The minimum lot width shall be twenty five (25) feet.

SECTION 1105 – Minimum Yard Requirements

All permitted structures located on the lot shall have a front yard setback of at least ten (10) feet, minimum side yard setback of ten (10) feet, and a minimum rear yard setback of twenty (20) feet.

SECTION 1106 – Maximum Lot Coverage

The maximum lot coverage for all buildings shall not be more than ninety percent (90%) of the total lot area.

ARTICLE 12

HIGHWAY COMMERCIAL DISTRICT (HC)

SECTION 1201 – Intent

The intent of the Highway Commercial District (HC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to major vehicular transportation route. The intent must also be made for the needs of the highway user and the automobile, and in so doing to establish appropriate locations along major streets and highways for highway and automobile related retail and service establishments in locations which will not cause undue traffic congestion.

SECTION 1202 – Permitted Uses and Structures (in Highway Commercial District “HC”)

1. Retail sale of: lumber and other building materials, farm equipment, motor vehicles, marine craft, trailers, farm and garden supplies, fuel and ice;
2. Wholesale sale of: motor vehicles and automotive equipment; drugs, chemicals, and allied products; dry goods and apparel; groceries and related products; electrical goods hardware, plumbing, heating equipment, and supplies; machinery, equipment, and supplies, beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials;
3. Funeral and crematory services;
4. Farm products warehousing and storage, excluding stockyards;
5. Refrigerated warehousing;
6. Food lockers, provided, that any slaughtering, killing eviscerating, skinning, or plucking be done indoors;
7. Household goods warehousing and storage;
8. General warehousing and storage;
9. Automobile repair and services;
10. Reupholster and furniture repair service;
11. Contract construction service;

12. Bus garaging and equipment maintenance;
13. Motor freight terminals;
14. Motor freight garaging and equipment maintenance;
15. Automobile parking;
16. Libraries, museums, art galleries, planetary, aquariums, historic and monument sites; auditoriums, exhibition halls; and arcades;
17. Miniature golf course, gymnasiums and athletic clubs, swimming pool, tennis courts, ice skating rinks; roller skating rinks;
18. Parks;
19. Amphitheaters, stadiums, drive-in-movies, areas and field houses; race tracks, fairgrounds, amusement parks, golf driving ranges, go-cart tracks, golf courses and country clubs, riding stables, playfields and athletic fields, and bowling alleys.
20. Communication and utility uses;
21. Automobile service stations;
22. Motels;
23. All retail sale and services;
24. Finance, insurance, and real estate services;
25. Lodges and fraternal organizations;
26. Restaurants and lounges;
27. Public building and grounds;
28. Churches, welfare, and charitable services;
29. Grain elevators; and
30. Rental storage units.
31. Single-family and multi-family dwellings.

SECTION 1203 – Conditional Uses

1. Light industry and manufacturing;
2. Other uses which, in the opinion of the County Planning Commission, are in the same general character as those enumerated in this article; and
3. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this District.

SECTION 1204 – Minimum Lot Requirements (in Highway Commercial District “HC”).

The minimum lot area shall be seven thousand (7,000) square feet. The minimum lot width shall be fifty (50) feet.

SECTION 1205 – Minimum Yard Requirements

There shall be a front yard setback of not less than forty (40) feet. There shall be a rear yard setback of not less than twenty (20) feet. Each side yard setback shall be not less than 10 feet. All distances shall be measured from the lot lines.

ARTICLE 13

GENERAL INDUSTRIAL DISTRICT (I)

SECTION 1301 – Intent

The intent of the General Industrial District (I) is to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations, which are compatible to adjoining districts. Such uses generally require open storage of materials or goods either before, during, or after the manufacturing process but are of a low noise or nuisance level. Land designed for this District should be located in relation to the thoroughfare network of the community as well as rail and air if required and designed so as not to disrupt normal traffic flows. Because of increasing technological developments, extensive lists of permitted uses are not practical. At anytime, a Planned Industrial Park is encouraged in this District.

SECTION 1302 – Permitted Uses and Structures

1. None

SECTION 1303 – Conditional Uses

All industrial uses and structures will be allowed by a conditional Use permit. The County Planning Commission may permit as a conditional use in general industrial districts any use, which is consistent with the intent of this district.

SECTION 1304 – Minimum Lot Requirements

There shall be, at a minimum, thirty thousand (30,000) square feet per general Industrial district lot.

SECTION 1304 – Minimum Lot Requirements

There shall be a front yard setback of not less than twenty five (25) feet. There shall be a rear yard setback of not less than twenty (20) feet. Each side yard setback shall not be less than twenty (20) feet, PROVIDED, that on lots adjacent to a Residential district, all structures shall be located so as to provide a minimum side and rear yard setbacks of twenty five (25) feet along that portion of the lot adjacent to the Residential District. Measurements shall be taken from the property lines of the lot in question.

ARTICLE 14

SUPPLEMENTARY DISTRICT REGULATIONS

SECTION 1401 – Visibility at Intersections

On all corner lots and lots bordering alleys and all private driveways intersecting public roads in all districts except Commercial, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersecting streets, in the area formed by a radius of twenty (20) feet from the intersection of the street, curbs, or edge.

SECTION 1402 – Erection of More Than One Principal Structure on a Lot

In any district, more than one structure may be erected on a single lot, provided, that the use is a permitted use and that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

SECTION 1403 – Spacing of Signs

Signs may not be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device; obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.

SECTION 1404 – Front Yard Regulations

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of thirty (30) inches and ten (10) feet. See Section 1401 for further regulations concerning corner lots.

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

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

SECTION 1405 – Fences, Walls, Hedges

Notwithstanding any other provisions of this ordinance, fences, walls or hedges may be permitted in any side or rear yard (lake side) as long as such fence, wall or hedge shall not be over six (6) feet in height from ground up to top of fence, wall or hedge, six (6) inches off side yard & twenty-five (25) feet from high water mark.

ARTICLE 15

NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, NONCONFORMING USES OF STRUCTURES AND PREMISES, AND NONCONFORMING CHARACTERISTICS OF USES

SECTION 1501 – Intent

Within the Districts established by this Ordinance or amendments that may later be adopted, there exists:

1. Lots;
2. Structures;
3. Uses of land and structures; and
4. Characteristics of use

Which were lawful before this Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the term of this Ordinance or future amendments. It is the intent of this Ordinance to permit the nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by these regulations to be incompatible with permitted uses in the Districts involved. A nonconforming use of structure or a nonconforming use of land and structure in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises intended to be seen from off the premises or by the addition of other uses of a nature, which would be prohibited generally in the District involved.

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

rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

SECTION 1502 – Nonconforming Lots of Record

In any District in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership. This provision shall apply even though such lot fails to meet the requirements for area and/or width, that are generally applicable in the District, provided that yard dimensions and requirements other than those applying to area and/or width of the lot shall conform to the regulations for the District in which such lot is located. Variances to the yard requirements shall only be obtained through action of the County Planning Commission.

In any District, if two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered undivided parcel for the purpose of this Ordinance. No portion of said parcel shall be used or sold in a manner which diminished compliance with lot width and area requirements established by this Ordinance; nor shall any division of any parcel be made which creates a lot with a width or area below requirements stated in this Ordinance.

SECTION 1503 – Nonconforming Uses of Land (or Land with Minor Structures Only)

Where at the time of passage of this Ordinance, lawful use of land exist which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
2. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the District in which such land is located.
3. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

SECTION 1504 – Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its reasonable fair market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 1505 – Repairs and Maintenance

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any portion of twelve consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current reasonable fair market value of the nonconforming structure or nonconforming portion of the structure as the case may be provided that the cubic content existing when it became nonconforming shall not be increased.

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

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

SECTION 1506 – Conditional Uses Shall Not be Nonconforming Uses

Any use which is permitted as a conditional use in a District under the terms of this Ordinance (other than a change through the County Planning Commission action

from a nonconforming use to another use not generally permitted in the District) shall not be deemed a nonconforming use in such District shall without further action be considered a conforming use at the date of adoption of this Ordinance.

ARTICLE 16

ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

SECTION 1601 – Administration and Enforcement

An administrative official who shall be known as the County Zoning Officer and who shall be designated by the County Board of Commissioners shall administer and enforce this Ordinance. This person may be provided with the assistance of such other persons as the County Board of Commissioners may direct.

If the Zoning Officer shall find by written complaint that any of the provisions of this Ordinance are being violated, the Zoning Officer shall take the following action:

The Planning Department shall send written notification by certified mail, return receipt requested, to the owner of the property informing said owner of the violation and the requirement that a permit be obtained or other required action taken within a specified period. If the property owner does not contact the Planning and Zoning Department within seven (7) business days (excluding weekends and State recognized holidays) from the date of receipt of the letter, the matter may be turned over to the State's Attorney's Office for further legal action under Section 2202.

SECTION 1602 – Building Permits Required

No building shall be erected, partially erected, moved, added to, or structurally altered without a permit therefore issued by the Zoning Officer. No building permit shall be issued by the Zoning Officer except in, conformity with the provisions of this Ordinance, unless he/she received a written order from the County Planning Commission in the form of an administrative review, conditional use, or variance as provided by this Ordinance.

SECTION 1603 – Application for Building Permits

All applications for building permits shall show the actual dimensions and shape of the lot to be built upon; the exact size and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Building permits may be obtained from the Zoning Officer.

The application shall include such other information as lawfully may be required by the Zoning Officer, including existing or proposed building or alteration; existing or proposed use of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

One copy of the application shall be returned to the applicant by the Zoning Officer after he/she has marked such copy either as approved or disapproved and attested to the same by his/her signature on such copy. If a building permit is refused, the Zoning Officer shall state the reasons for such refusal in writing. The original and one copy of the application, similarly marked, shall be retained by the Zoning Officer.

The issuance of a building permit shall, in no case, be construed as waiving any provisions of this Ordinance.

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

SECTION 1604 – Construction and Use to be provided in Applications and Permits

Building permits issued on the basis of applications approved by the Zoning Officer shall be authorized only the use, arrangement, and construction set forth in such approved application and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance and punishable as provided by ARTICLE 21 hereof.

SECTION 1605 – Obtaining a Building Permit

All building permits shall be obtained by application of the owner or builder and shall give an estimated cost of the construction or repairs and initial fees shall be based on such estimate; provided that if at the completion of said construction or repair the estimated cost as given in the application appears inadequate to the Zoning Officer, he/she may demand bills or receipts to substantiate such value and additional fees may be assessed accordingly. It is the owner's responsibility to obtain a permit prior to construction on his/her property, owned or leases.

ARTICLE 17

COUNTY PLANNING COMMISSION

SECTION 1701 – Proceedings of the County Planning Commission

The County Planning Commission shall serve as the board of adjustment as provided by South Dakota law. The County Planning Commission shall adopt rules necessary for the conduct of its affairs and in keeping with the provisions of this Ordinance. The County Planning Commission shall keep record of all proceedings. Meetings shall be held at the call of the Chairperson and at such other times, the Planning Commission may determine. The Chairperson, or in his/her absence, the acting chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The County Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be of public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission shall adopt from time to time, subject to the approval of the Board of County Commissioners, such rules and regulations, as it may deem necessary to carry out appropriate provisions of this Ordinance in effect.

SECTION 1702 – Hearings, Appeals, and Notices

Appeals to the County Planning Commission may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of the County Zoning Officer. Such appeal shall be taken with fifteen (15) days after permit publications in the newspaper, by filing with the officer from whom the appeal is taken and with the County Planning Commission a notice of appeal specifying the ground thereof. The officer from whom the appeal is taken shall forthwith transmit to the County Planning Commission all the paper constituting the record upon which the action appealed from was taken.

The County Planning Commission shall within thirty (30) days after receipt of the petition hold a public hearing on the appeal, give a public notice fifteen days in advance, as well as, give due notices to the parties in interest, and decide the same. At the hearing, any party may appear in person or by agent or by attorney.

ARTICLE 18

COUNTY PLANNING COMMISSION—POWERS AND DUTIES

SECTION 1801 – Administrative Review

The County Planning Commission shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation relating to the location or soundness of structures or to interpret any map.

SECTION 1802 – Conditional Uses; Conditions Governing Applications; Procedures

The County Planning Commission shall have power to hear and decide, in accordance with the provisions of this Ordinance, requests for conditional uses or for decisions upon other special questions upon which the County Planning Commission is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether a conditional use should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance. A conditional use shall not be granted by the County Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested;
2. The Zoning Officer shall publish in one (1) of the official county papers the public hearing notice fifteen (15) days in advance of the public hearing. The Zoning Officer shall mail a notice of the proposed conditional use request to all persons owning property not less than one mile of the applicant's property. At least five days before the hearing, there shall be a sign posted on the subject property which shall state that a conditional use permit has been requested and shall state the date, time, and place of the public hearing.
3. The public hearing shall be held. Any party may appear in person, by agent, or by attorney;
4. The County Planning Commission shall make a finding that it is empowered under the section of the Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest; and

5. Before any conditional use shall be issued, the County Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provisions and arrangements have been made concerning the following:
 - a. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, or other effects of the conditional use on adjoining properties and properties generally in the District;
 - c. Refuse and service area, with particular reference to the item in (a) and (b) above;
 - d. Utilities, with reference to locations, availability, and compatibility;
 - e. Screening and buffering with reference to type, dimensions, and character;
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the District;
 - g. Required yards and other open spaces; and
 - h. General compatibility with adjacent properties and other property in the District.

SECTION 1803 – Variances, Conditions Governing Applications; Procedures

The County Planning Commission shall have the power, where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional difficulties to, or exceptional and undue hardship upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, as such relief may be granted without substantially impairing the intent and purpose of this Ordinance.

1. No such variance shall be authorized by the Commission unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property; and the character of the district will no be changed by the granting of the variance; and the granting of such variance is based on the reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
2. No variance shall be authorized unless the Commission finds that the condition or situation of the property concerned or the intended use of the land concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
3. A variance from the terms of this Ordinance shall not be granted by the County Planning Commission unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or buildings involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
5. The Zoning Officer shall publish in one (1) of the official county papers the public hearing notice fifteen (15) days in advance of the public hearing. The Zoning Officer shall mail a notice of the proposed variance request to all persons owning property within 150 feet in residential/platted areas or one-half mile in country/rural areas of the applicant's property. At least five days before the hearing, there shall be a sign posted on the subject property which shall state that a variance permit has been requested and shall state the date, time, and place of the public hearing.
6. Any party may appear in person, or by agent or by attorney; the County Planning Commission shall make findings that the requirements of this SECTION have been met by the application for a variance; the

Commission shall further make a finding that the reasons set forth in the application justify the granting of a variance; and the variance is the minimum variance that will make possible the reasonable use of the land, structure, or building; the Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

7. In granting a variance, the County Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made in part of terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under SECTION 2202 of this Ordinance.
8. Under no circumstances shall the County Planning Commission grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or be implication prohibited by the terms of this Ordinance in said district.

SECTION 1804 – County Planning Commission has Powers of Zoning Administrator on Appeals; Reversing Decision of Zoning Officer

In exercising the above mentioned power, the County Planning Commission may reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination appeal form, and may make such order, requirement, decision or determination appeal as ought to be made, and to that end shall have all the powers of the Administrator from whom the appeal is taken. The concurring vote of three-fourths (3/4) of the full membership of the County Planning Commission shall be necessary to reverse any order, requirement, decision, or determination of any such administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

ARTICLE 19

APPEALS

SECTION 1901 – Duties of Zoning Officer, County Planning Commission, Board of Adjustment, and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be presented first to the Zoning Officer and that such questions shall be presented to the County from the decisions of the County Planning Commission shall be to the court as provided by law.

The procedure for deciding such questions shall be as stated in this SECTION and Ordinance. Under this Ordinance, the Board of County Commissioners shall have the following duties: (1) of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance as provided by law, (2) or establishing a schedule of fees and charges as stated in ARTICLE 20.

SECTION 1902 – Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the County Planning Commission after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause eminent peril to life or property.

In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the County Planning Commission or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

SECTION 1903 – Appeals from the County Planning Commission; Procedures of Appeal

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

ARTICLE 20

SCHEDULE OF FEES, CHARGES, AND EXPENSES

SECTION 2001 – Schedule of Fees, Charges, and Expenses

The Board of County Commissioners shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Board of County Commissioners. Applicant will be responsible for fees associated with any notice required to be sent out on Applicants behalf. This includes but is not limited to postage, envelopes, paper, ink, etc. Until all application fees, charges, and expenses have been paid in full no action shall be taken on any application for appeal. All fees received will be deposited in the Edmunds County general fund.

**Planning and Zoning
Fee Schedule**

**Edmunds County
Building Permit Fee Schedule
(Based on estimated cost of construction)**

| | |
|-------------------------------|--------------|
| \$10,000 or less | \$15 |
| \$10,001 to \$100,000 | \$30 |
| \$100,001 to \$500,000 | \$75 |
| \$500,001 and up | \$150 |

Recording Plats

| | |
|--------------|--------------------------------------|
| \$50 | Plat Approval |
| \$10 | Recording 1st page |
| \$5 | Record 2nd page |
| \$50 | Variance Fee |
| \$50 | Conveyance Fee |
| \$75 | Conditional use Permit |
| \$100 | Rezoning Fee |
| \$300 | Special Meeting Fee |

ARTICLE 21

AMENDMENTS

SECTION 2101 – Amendments

The provisions set forth in this Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by action of the Board of County Commissioners or when such amendment, supplement, change, modification, or repeal is requested through a petition by thirty (30) percent of the landowners in the district requesting change. An individual landowner may also petition the Board to change the zoning of all or any part of his/her property. Such petitioning landowner shall also notify all persons owning property within the following distances of the petitioner's property: residential/platted areas – 300 feet of the applicant's property or the next three landowners which ever is greater in each direction; country/rural areas – one-half mile. Notification, of the petitioned zoning change, must be made by registered mail at least one week prior to any public hearing held thereon by the County Planning Commission. The Zoning Officer shall amend the "Procedure for Rezoning" form to indicate the same. Upon filing or upon separate request by the Board of County Commissioners, the County Planning Commission and the Board shall hold a public hearing not less than fifteen (15) days after the notice published in the official newspaper of the County and subject to the provisions in SDCL 11-2-19.

The County Planning Commission shall within forty-five (45) days make its recommendation to the Board of County Commissioners. The report of such recommendation shall include approval, disapproval, or their suggestions and the reasons therefore, and a discussion of the effect on such amendment, supplement, change, modification upon adjacent property and upon the Comprehensive Plan.

The Board of County Commissioners shall therefore, by duty enacted Ordinance, either adopt or reject such amendment, supplement, change, modification, or repeal, and if it is adopted by the Board of County Commissioners, the same shall be published in the official newspaper in the County and take effect on the twentieth (20th) day after its publication.

ARTICLE 22

VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES

SECTION 2201 – Building Permit Violations

Any owner of property upon which work has been done for which a Building Permit is required, prior to issuance of said permit, in addition to the penalties set out in Section 2202, shall pay a doubled application fee. All late charges apply immediately upon discovery of any violation. The party/ entity in violation is responsible for all applicable late charges whether or not they have yet to receive notice of said violation(s) as set forth below.

If the Zoning Officer is made aware of a violation of the building permit requirement, she/ he shall send written notification to the owner of the property informing said owner of the violation and the requirement that a permit be obtained. If the property owner does not return the completed building permit application with appropriate fee to the Planning and Zoning Department within seven (7) business days (excluding weekends and State recognized holidays) from the date the letter was mailed, the Zoning Officer will send out a second letter by certified mail, return receipt requested, and the late charge will be assessed. If the property owner does not return the completed building permit application along with all fees and late charges to the Planning and Zoning Department within seven (7) business days (excluding weekends and State recognized holidays) from the date of receipt of the second letter, the matter may be turned over to the State's Attorney's Office for further legal action under Section 2202.

SECTION 2202 – Violations and Penalties

In addition to all other remedies available to the County to prevent, correct or abate Ordinance violation, a violation of these Zoning Ordinances is also punishable by a fine and/ or imprisonment pursuant to SDCL 7-18A-2 as provided below:

A fine not to exceed \$500.00 for each violation or by imprisonment for a period not to exceed thirty (30) days for each violation, or by both the fine and imprisonment. Each day the violation continues shall constitute a separate violation. The date of the first violation shall be the date upon which the property owner first received notice of the violation. All fines for violations shall be paid to the County and deposited in the general fund.

ARTICLE 23

LEGAL STATUS PROVISIONS

SECTION 2301 – Separability

Should any article, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 2302 – Purpose of Catch Heads

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

SECTION 2303 – Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provision of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effort.

SECTION 2304 – Effective Date

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

ARTICLE 24

DECLARATION AND ABATEMENT OF PUBLIC NUISANCES

Section 2401 – This Ordinance is for the declaration and abatement of public nuisances in the unincorporated areas of Edmunds County.

Section 2402 – Pursuant to the SDCL 7-8-33 and consistent with the purpose of creating and maintaining a safe and healthy environment for the public welfare of Edmunds County residents and their property.

Section 2403 – Public Nuisance.

What is a public nuisance? Unlawfully doing an act, or omitting to perform a duty, which act or omission either: (1) injures or endangers the health or safety of others; (2) a hazard or an injury to human health; and in addition (3) specific acts, conditions, and things that are declared to constitute a public nuisance.

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons.

Whoever shall create, commit, maintain, or permit to be created, committed, or maintained (1) any of the enumerated conditions, specific acts, things, and situations or (2) otherwise violates the general provisions of this ordinance is guilty of a public nuisance and the place, contents, area, thing, or all of the foregoing, are declared a public nuisance and shall be enjoined and abated as provided by state statute and/ or county ordinance.

It will be the responsibility of the Planning and Zoning, to enforce these public nuisance ordinances in Edmunds County. Only signed, written complaints will be considered.

Section 2404 – Definitions.

Abandoned property – Any deteriorated, dilapidated and/ or abandoned property in unusable condition having no value other than nominal scrap or junk value; unlicensed motor vehicles may all be considered to be a nuisance.

Breeding place for flies, rodents and/ or pests – The unhealthy and unnecessary accumulation of manure, garbage, tires, debris or discarded items which is a potential breeding area for flies and rodents may be considered to be a nuisance.

Building official – As used in this Title it shall mean the Zoning Administrator or an Official authorized by the Edmunds County Commissioners with the enforcement of this Title.

Building – Any structure designed or intended for the support, enclosure, shelter, or protection of persons or property.

Buildings, which are abandoned, boarded up, partially destroyed, or partially constructed and uncompleted subsequent to the expiration of a building permit; any building which poses a health hazard to anyone or anything that might inhabit it; any residential structures that are found to be deteriorated to the point that they may endanger or injure a person's life may be considered to be a nuisance.

Section 2405 – Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this Title, or whenever the Official (as defined in Section 2404), or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this Title, the Official or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed by this Title. If such building or premises is occupied, a reasonable effort will be made to locate the owner of the building or premises and demand entry. If such entry is refused, the Zoning Administrator or Official or an authorized representative shall have recourse of every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as herein provided, to permit entry therein for purposes of inspection and examination pursuant to this Title.

Section 2406 – Notification.

Whenever notification is given that any condition or conditions prohibited in this Title exist on any premises located in Edmunds County, the Zoning Administrator or Official or an authorized representative shall give cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same within a reasonable period of time.

Section 2407 – Owner Unknown – Notice Waived.

Whenever the owner, occupant, or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the Zoning Administrator or Official shall proceed to abate the nuisance without notice. In either case the expenses of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

Section 2408 – Right of Appeal.

The owner or any person affected shall have the right of appeal to the Edmunds County Commission for investigation and review of the Planning and Zoning Board's determination. Such appeal shall be in writing, shall state the objection of the person filing the same, shall be filed with the County Auditor within ten (10) days after the date of posting, publishing, serving, or mailing of the Notification, and shall be presented to the Edmunds County Commission by the Zoning Administrator who shall proceed in accordance with the Abatement Notice, or as modified by the Commission; or not at all, and its decision thereon shall be final and conclusive.

Section 2409 – Failure to Abate.

In the event a person fails to abate such nuisance the Zoning Administrator or Official shall prepare a statement of the expenses incurred in the razing, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful condition and shall file such statement with the County Auditor. Such statement shall refer to the particular premises including any improvements, structures or building thereon, upon which the actions taken to abate the unlawful conditions occurred.

Within ten (10) days after the filing of the statement referred to above, the Zoning Administrator or Official shall serve notice upon the owner, agent of the owner, lessee, occupant or person in possession of the parcel of land described in the statement by having such person personally served or by mailing to the last known address.

The County may recover the expenses incurred by the Zoning Administrator or Official in abating a public nuisance by taxing the cost thereof by special assessment again the real property on which the nuisance occurred.

Section 2410 – Abatement by State Law.

In addition to the method of abatement of nuisances provided in this Title, the County may abate any nuisance found within the County in the manner provided by State Law.

Section 2411 – Penalty and Remedy.

Any person who maintains, commits, or fails to abate a public nuisance as required under the provision of this Title shall be subject to a maximum penalty of thirty (30) days in jail, or a five hundred dollar (\$500) fine or both. Each day that the nuisance continues shall constitute a separate offense.

In addition, the County may use the remedies of a civil action and abatement as set forth in SDCL 21-10-5 through SDCL 21-10-9.

APPENDIX A

EDMUNDS COUNTY SUBDIVISION REGULATIONS

An Ordinance establishing rules, regulations, and standards governing the subdivision of the land within Edmunds County, South Dakota, and providing harmonious development of the county and its environs for the coordination of streets within subdivisions with other existing or planned streets or with other features of the comprehensive plan of the county for adequate open spaces for traffic, recreation, light and air, and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, or prosperity.

Now, therefore, be it enacted by Edmunds County, South Dakota.

ARTICLE 1 – GENERAL PROVISIONS

SECTION 101 – Purpose

These regulations shall be for the purpose of promoting harmonious development through the implementation of the Edmunds County Comprehensive Plan.

SECTION 102 – Extent of Regulation

The provisions of these regulations shall apply to every addition to, or subdivision within Edmunds County, South Dakota, and their prescribed area of extra-territorial jurisdiction. No plat of a subdivision of land shall be filed or recorded until it has been submitted to the Planning and Zoning Commission for their review and then approved by the Edmunds County Commissioners.

SECTION 103 – Definitions

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

The word *person* includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word *shall* is mandatory, the word *may* is permissive.

The words used or occupied included the words *intended*, *designed*, or *arranged* to be used or occupied.

The word *lot* includes the words *plot* or *parcel*.

The word *building* includes the word *structure*.

Alley: A public right-of-way which is used primarily as a secondary means of access to the abutting property.

Block: A track or parcel of land bounded by public streets or land, streams, railroads, unplatted lands or a combination thereof.

Comprehensive Plan: A long-range plan for the improvement and development of Edmunds County, South Dakota, as adopted by the Planning Commission and the County Commissioners.

Cul-de-sac: A street having one end connecting with a public street and being terminated at its other end by a vehicular turn-around.

Improvements: Pavements, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading street signs, plantings, and other items for the welfare of the property owners and the public.

Lot: A portion of a subdivision or other parcel of plotted land, intended as a unit for transfer of ownership or for development.

Lot of record: A tract of land described as an integral portion of a subdivision plat which is properly recorded in the Register of Deeds Office of Edmunds County, South Dakota.

Plat: A map, drawing, or chart on which the subdivider's plan of the subdivision is presented and which he submits for approval and which will be recorded in final form.

Right-of-way: A strip of land separating private property from the existing road, street or alley or dedicated in public ownership.

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

Street-major: Provides for the through traffic movement between areas and across the city, and direct access to abutting property; subject to necessary control of entrances, exits and curb use.

Street-collector: Provides for traffic movement between major arterials and local streets, and direct access to abutting property.

Street-local: Provides for direct access to abutting land, and for local traffic movements.

Subdivider: A natural person, firm, co-partnership, association or corporation who submits a proposed subdivision to the Planning Commission.

Subdivision: The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development.

Water course, drainage way, channel or stream: A natural or man-made depression in which a current of surface run-off water flows following precipitation.

ARTICLE 2

PROCEDURES

SECTION 201 – Pre-Application

Prior to the subdivision of any land, the subdivider or his/her agent shall discuss informally with the Planning Commission the proposed subdivision with reference to these Subdivision Regulations, the Zoning Ordinance, and the Comprehensive Plan.

SECTION 202 – Preliminary Application Fee

The subdivider shall pay to the Zoning Administrator a preliminary application fee as stated in the approved fee schedule before application.

SECTION 203 – Preliminary Application

The subdivider shall prepare and submit to the Planning Commission the following:

1. Seven (7) copies of the preliminary plat at a uniform size of fifteen (15) inches by twenty-six (26) inches or eight and one-half (8-1/2) inches by fourteen (14) inches. All preliminary submittals shall be in conformance with the design standards set forth in Article III of this Ordinance and shall include or be accompanied by the following information:
 - a) Receipt for preliminary platting fee.
 - b) Proposed name of the subdivision, which shall not duplicate previously filed plat names.
 - c) A date, scale, northpoint, and key map showing the general location of the proposed subdivision in relation to surrounding development.
 - d) Names and addresses of the developer, engineer, surveyor, or landscape architect responsible for the survey or design.
 - e) Location of boundary lines in relation to section or quarter section lines, including a legal description of the property.
 - f) Existing contours wherever five (5) feet of deviation occurs.
 - g) Location, width, and name of existing or platted streets and alleys, railroads, utilities, right-of-ways or easements, parks, and existing structures within the proposed subdivision and their relationship to the same of adjacent subdivision.
 - h) Zoning classifications and existing and proposed land use.

- i) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other suitable sanitary disposal systems, water supply, pavement, sidewalks, drainage ways, and other required improvements, or in lieu of the completion of such work and installations previous to the final approval of a plat, the County Commissioners may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the municipality the actual construction and installation of such improvements and utilities within a period specified by the County Commissioners and expressed in the bond, or in lieu of completion of such work and installations previous to the final approval of a plat for an assessment or other method whereby the municipality is put in an assured position to do said work and make said installations at the cost of the owners of the property within the subdivision.
 - j) Written and signed statements by the appropriate officials, obtained by the developer, ascertaining the availability of gas, electricity, and water the proposed subdivision.
 - k) Layout, numbers, and approximate dimensions of lots and the number of each block.
2. The receipt of the preliminary plat applications, the Planning and Zoning Commission shall distribute said applications to the appropriate officials, who shall examine the proposed plat in terms of compliance with all laws, regulations, and codes of the City. The findings of the examinations shall be returned to the Commission within fifteen (15) days.
 3. The Commission, upon receipt of the examination findings, shall approve or disapprove the preliminary plat application at the time of their next regularly scheduled meeting. Approval of the preliminary plat by the Commission shall be void at the end of six (6) months unless a final plat has been submitted.
 4. Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat.

SECTION 204 – Final Application Fees

The subdivider shall pay to the Zoning Administrator a final application fee after preliminary approval and before final application. The fee shall be as stated in the approved fee schedule.

SECTION 205 – Final Plat Application

The subdivider shall prepare and submit to the Planning and Zoning Commission the following, prepared by an engineer or land surveyor registered in the State of South Dakota:

1. Seven (7) copies of the final plat at a uniform size of fifteen (15) inches by twenty-six (26) inches or eight and one-half (8-1/2) inches by fourteen (14) inches. All final plat submittals shall be in conformance with the design standards

set forth in Article V of this Ordinance and shall include or be accompanied by the following information, in addition to that already submitted on the preliminary application:

- a) The exact location and layout of lots, streets, alleys, easements, and other public ground with accurate dimensions in feet and decimals of feet, interior angles, length of radii and/or arcs of all curves, together with the names of all streets.
 - b) Location and description of all monuments.
 - c) Location by section, township, range, county, and state, including descriptive boundaries of the subdivision, based on an accurate traverse giving angular and linear dimensions that must be mathematically close.
 - d) Notarized certificate signed and acknowledged by all parties having any titled interest in or lien upon the land subdivided consenting to the plat, including dedication of all streets, alleys and public ways, parks or other public grounds, or lands for charitable, religious, or educational purposes, if any, and granting easements.
 - e) Certificate signed by the County Treasurer stating that there are no regular or special taxes due or delinquent against the property described in the plat.
 - f) Certificate signed by the Director of Equalization approving the plat.
 - g) One copy of any private restriction or covenants affecting the subdivision or any part thereof.
2. Any subdivision of land containing two or more lots, no matter how described, must be submitted to the Planning and Zoning Commission for approval. Any plat submitted for approval shall contain the name and address of a person to whom notice of hearing may be sent; and no plat shall be acted upon by the County Commissioners without affording a hearing thereon, notice of the time and place of which shall be sent by mail to said address not less than five days before the date fixed therefore. Also any plat submitted for approval shall require the signature of the Edmunds County Auditor and the Secretary of the Edmunds County Commissioners.
 3. The plat shall be approved or disapproved within sixty (60) days after submission thereof; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the County Commissioners on demand; provided, however, that the applicant for the approval may waive this requirement and consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the County Commissioners.
 4. The approval of a plat by the County Commissioners shall not be deemed to constitute or effect any acceptance by the municipality or public of the dedication of any street or other ground shown on the plat.

5. When any map, plan, plat or replat is tendered for filing in the office of the Register of Deeds, it shall be the duty of any such officer to determine whether such proposed map, plan, plat or replat is or is not subject to the provisions of the Ordinance and whether the endorsements required by this Ordinance appear thereon, and no register of deeds or deputy shall accept for record, or record, any such map, plan, plat or replat unless and until the same shall have been approved by the County Commissioners of such municipality.

ARTICLE 3

DESIGN STANDARDS

SECTION 301 – General Standards

Land within the proposed subdivision which the Planning and Zoning Commission finds to be unsuitable for subdividing due to flooding or bad drainage shall not be subdivided until the objectionable features have been eliminated or until adequate safeguards against such objectionable features are provided.

SECTION 302 – Streets and Alleys

1. Streets in the subdivision normally shall connect with streets already dedicated in adjoining or adjacent subdivisions.
2. Minor residential streets should be planned as to discourage through traffic. Permitted cul-de-sacs shall not be longer than four hundred (400) feet and shall terminate with a turn-around having a curbline diameter of not less than eighty (80) feet.
3. Centerline off-sets of intersecting streets shall be avoided, but where necessary shall be not less than one hundred fifty (150) feet.
4. Blocks in residential subdivisions shall be not less than three hundred (300) feet long and not more than one thousand two hundred (1,200) feet long.
5. Half streets shall be prohibited except where essential to the reasonable development of the subdivision or where it is found to be practical to require the dedication of the other half when adjoining property is subdivided.
6. Under normal conditions streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. More than four (4) approaches to any intersection shall be prohibited.
7. Alleys shall be provided in Commercial and Industrial districts except where other definite and assured provision is made for service access.
8. The right-of-way widths and pavements widths (back-to-back of curb) for interior streets and alleys included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

| <u>TYPE</u> | <u>PAVEMENT WIDTH</u> | <u>R.O.W.</u> |
|------------------------|-----------------------|---------------|
| Major Arterial Streets | 66' | 80' |
| Local Streets | 46' | 66' |
| Alleys | 16' | 20' |

SECTION 303 – Lots

1. Side lot lines shall be approximately at right angles to straight street lines or radial to curved street lines.
2. Every lot shall abut and have access to a public street.
3. Double frontage lots shall be avoided except where they back upon a major street.

SECTION 304 – Easements

1. Easements on rear or side lot lines shall be provided for sanitary sewers where necessary and shall be a total of at least ten (10) feet wide on each side.
2. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way of such width as will be adequate for both water flow and maintenance operations.

ARTICLE 4

IMPROVEMENTS

SECTION 401 – IMPROVEMENTS

It shall be the responsibility of the developer to install in accordance with plans specifications, and data approved by the Director of Equalization certain required improvements as follows:

1. Staking – the external boundaries and corners of each block and lot shall be monumented by iron rods, pipes, or pins not less than one (1) inch in diameter and extending at least twenty-four (24) inches below grade.
2. Street Grading – all full width streets located entirely within the boundary of the subdivision, except major and collector streets, shall be graded to a minimum width of nine (9) feet back of both curb lines to within six (6) inches of the grade established by the Director of Equalization.
3. Street Surfacing – the streets shall be paved in accordance with street improvement and paving standards and regulations approved by the County Commissioners of Edmunds County, South Dakota.
4. Sanitary Sewer – where a municipal sanitary sewer is accessible by gravity flow within 500 feet of the final plat, the subdivider shall submit to the County Commissioners the plans for connection with a trunk line to the existing system. The County Commissioners shall then inform the subdivider of the trunk size requirements as per anticipated development in the general area. Where a municipal sanitary sewer is not accessible by gravity flow within 500 feet of the final plat, the subdivider shall make provision for the disposal of sewerage as required by law. Where a municipal sanitary sewer accessible by gravity connection is not within 500 feet of the final plat, but where plans for the installation of city sanitary sewers within such proximity to the plat have been prepared and construction will commence within twelve (12) months from the date of the approval of the plat, the subdivider shall be required to install sewers in conformity with such plans.
5. Water Mains – where a public water supply is within five hundred (500) feet of a proposed subdivision, the subdivider shall install, or have installed, a connection to each lot prior to the paving of the street, as according to the County Code(s) requirement(s). Where a public water supply is not available, each lot in a subdivision shall be furnished with a water supply system and proper provisions for the maintenance thereof. Any lot so serviced shall have a minimum area of one-half (1/2) acre. The design of any such system shall be subject to the approval of the State Department of Health.

ARTICLE 5
ENFORCEMENT

SECTION 501 – Enforcement

1. No plat of any subdivision within the application of this Ordinance shall be entitled to be filed or recorded in the office of the Register of Deeds or have any validity until such plat has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.
2. It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land for building purposes as a part of or in conformity with any plat, plan, or replat of any subdivision within the area subject to application of this Ordinance unless said plan, plat, or replat shall have been approved as prescribed by this Ordinance and filed and recorded in the office of the Register of Deeds.

ARTICLE 6

PENALTY

SECTION 601 – Penalty

It is declared unlawful for any person, firm, or corporation to violate any of the terms or provisions of this Ordinance. Violation thereof shall be a misdemeanor and may be punishable by a fine established by the County Commissioners for each and every day that any violator fails to comply with the provision of this Ordinance.

Any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent Edmunds County from taking such other lawful action as is necessary to prevent any violation.

ARTICLE 7

SEVERABILITY CLAUSE

SECTION 701 – Severability Clause

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE 8

LEGAL STATUS PROVISIONS

SECTION 801 – Conflict with Other Regulations

No final plat of land within the force and effort of the Zoning Ordinance shall be approved unless it conforms to these Regulations. Whenever there is a discrepancy between standards or dimensions noted herein and those contained in the Zoning Ordinance, building code, or other official regulations or ordinances, the most restrictive shall apply.

APPENDIX B

ZONING DEFINITIONS

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

A 25-year, 24-hour Storm Event is the amount of rainfall in a 24-hour period expected to occur only once every 25 years. Typically, the 25-year, 24-hour storm event is about 5 inches in Edmunds County.

Abandoned property – Any deteriorated, dilapidated, and/or abandoned property in unusable condition having no value other than nominal scrap or junk value.

Accessory Use or Structures – A use or structure on the same lot with and of a nature customarily included or subordinate to the principle use or structure.

Alley – A public right-of-way which is used primarily as a secondary means of access to the abutting property.

Anaerobic Lagoon – 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 gases.

Animal Feeding Operation Structure – An anaerobic lagoon, formed manure storage structure, egg wash water storage structure, earthen manure storage basin, or confinement building.

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

Animal Unit – Animal species and a number of a species required to equal 500, 1,000, and 2,000 animal units.

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

Aquifer – A geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.

Block – A track or parcel of land bounded by public streets or land, streams, railroads, unplatted abutting property.

Building - Any structure designed or intended for the support, enclosure, shelter, or protection of persons or property. The word includes the word structure and is a structure which is entirely separated from any other structure by space or by wall in which there is not communicating doors, windows, or similar opening. A principal building including covered porches and paved patios is a building which is a primary use. In any residential district, any dwelling shall be deemed to be the principal building on the lot.

Building Area – The portion of a lot remaining after required setbacks and widths have been determined.

Best Management Practices (BMP) – 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.

Bypass – The intentional diversion of waste streams from any portion of a treatment facility.

Change in Operation – A cumulative increase of more than 500 animal units, after _____ (date) _____, which are confined at an un-permitted concentrated feeding operation.

A Chronic or Catastrophic Event – A single precipitation event, or a series of rainfall events in a short period of time, that totals or exceeds the volume of a 25-year, 24-hour storm event. The event includes tornadoes, or other catastrophic conditions. The event would directly result in, or cause, an overflow from the containment structure or lagoon that receives and contains runoff from an open lot.

Common Ownership – A single, corporate, cooperative or other joint operation or venture.

Comprehensive Plan – A long-range plan for the improvement and development of Edmunds County, South Dakota, as adopted by the Planning Commission and the County Commissioners.

Concentrated Animal Feeding Operation – A lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 45 days or more during any 12-month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility. Two or more animal feeding operations under common ownership are a single animal operation if they adjoin each other, or if they use a common area, or system for disposal of manure.

Conditional Use – A conditional use is a use that would not be appropriate generally or without restrictions throughout a zoning district, but which if controlled as to number, area, location, or relations to the neighborhood, would promote the public health, safety, welfare, appearance, comfort, convenience, prosperity, and general well being. Such uses may be permitted in a zoning district as conditional uses, if specific conditions are defined by the Edmunds County Planning Commission and the County Board of Commissioners. Such uses may be permitted in such zoning division or district as conditional uses, as specific provisions for such exceptions is made in these zoning regulations. The Board of Adjustment may, after notice and hearing, revoke a conditional use in the event of a violation of any of such conditions. In addition, the conditional use permit may not be transferred during any violation.

Confinement Feeding Operation – A totally roofed animal feeding operation in which wastes are stored or removed as a liquid or semi-liquid.

Confinement Feeding Operation Structure – A formed manure storage structure, egg wash water storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon.

Cul-de-sac – A street having one end connecting with a public street and being terminated as its other end by a vehicular turn-around.

Density – Pertaining to the number of dwelling units per net acre or gross acre, as indicated for the appropriate zoning district and new subdivisions.

Domestic Animal – 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 mules.

Dwelling, Single Family – A residential dwelling unit other than a mobile home, designed for one family.

Dwelling, Multiple Family – A residential building designed for two or more families living independently of each other, completely.

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

Earthen Manure Storage Basin – An earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are removed at least once each year.

Established Building Site – An established building site shall have been used in the past as a farmstead for a normal farming operation. Any residence established for more than ten (10) years shall become an established building site.

Established Residence – Any residence established by a personal presence, in a fixed and permanent dwelling and an intention to remain there.

Exceptions – An authorization for the installation of landscape plant material of a type or in a location which would otherwise be prohibited by this title.

Family – One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. In addition to persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title: (1) A person residing with the family for the purpose of adoption; (2) Not more than six (6) persons under licensed or approved by a governmental agency; (3) Not more than four (4) persons nineteen (19) years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency; and (4) any person who is living with the family at the direction of a court.

Feedlot Operator – 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.

Formed Manure Storage Structure – 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.

Floor Area – The sum of all gross horizontal enclosed area of the floors of the building(s) and its accessory building(s) on the same lot, excluding basement floor areas and non-enclosed portions of the structure.

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

1. No more than two other persons, in addition to the members of the family, residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. No more than 30 percent of the floor area is allowed for such occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding TWO SQUARE FEET in area, nonilluminating and mounted flat against the wall of the principal building.
4. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and may the need for parking

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

5. No equipment or process shall be used in such home occupation which created noise, vibration glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.

Horticulture – The art or science of growing flowers, fruit and vegetables.

Housed Lot – A totally roofed building 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.

Improvements – Pavements, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading street signs, planning and other items for the welfare of the property owners and the public.

Junk Yards – The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of a lot, or tract of land for the sale, storage, keeping, or abandonment of junk, scrap metal, or salvageable materials, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

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

Landscaped Area – An area that is permanently devoted and maintained for the growing of shrubbery, grass or other plant material, and may include minor areas with non-living ground cover. Said minor areas will exclude the street right-of-way.

Letter of Assurances – A list of conditions signed by the applicant for a permit acknowledging agreement to follow the conditions of the permit.

Lot – For the purpose of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required.

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

Lot Measurements –

1. DEPTH – of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and their rearmost points of the side lot lines in the rear; and

2. WIDTH – of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot.

Lot of Record – A tract of land described as an integral portion of a subdivision plat which is property recorded in the Register of Deeds Office of Edmunds, County, South Dakota.

Lot Types – Any lot within the jurisdiction of this Ordinance shall be one of the following types:

1. CORNER LOT – A corner lot is defined as a lot located at the intersection of two or more streets. A lot abutting a curved street will be considered a corner lot if the interior angle of the side lot lines are less than 135 degrees.
2. INTERIOR LOT – An interior lot is defined as a lot other than a corner lot with only one frontage on a street.
3. THROUGH LOT – A through lot is defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Major Renovation – Reconstruction and/or renovation/remodeling of an existing structure to the extent of 75% or more of the replacement cost of said structure. Replacement cost shall be determined by use of the Marshall Swift Program which is used by the Edmunds County Director of Equalization Office.

Man-Made – A pipeline, ditch, drain, tile, terrace, irrigation system, machine, or other object that carries manure, wastewater, or runoff into waters of the state.

Manure Management System – Any piping, containment structures, and disposal appurtenances associated with the collection, storage, treatment, and disposal of manure or wastewater at a concentrated animal feeding operation.

Mobile Home – A one-family dwelling unit of vehicular, portable design, built on a chassis and designed to be moved from one site to another and to be used without a permanent foundation.

Mobile home means any vehicle or similar portable structure having been constructed with wheels (whether or not such wheels have been removed) and having no foundation other than wheels, jacks or skirtings, and so designed as to permit occupancy for dwelling or sleeping purposes.

Mobile Home Park – Any premises where more than two mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for two or more mobile homes for living and sleeping purposes, and which include buildings, structures, vehicles, or enclosure used or intended for use of storing a vehicle. All proper utilities must also be present for said living quarters.

Modular Home – A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

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

No-till Cropland – Land which is subject to conservation farming practice: where the soil is left undisturbed from harvest to planting; where planting or drilling is done in a narrow seedbed or slot created by coulters, row cleaners, disk openers, or in-row chisel; and where this conservation practice has been ongoing for at least four consecutive years to establish the soil characteristics necessary to reduce or eliminate erosion from runoff.

Open Concentrated Animal Feeding Operation – An un-roofed or partially roofed animal feeding operation in which no crop, vegetation, forage growth or post-harvest residues are maintained during the period that animals are confined in the operation.

Open Lot (Agriculture) – 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.

Other – Any like and similar condition or conditions.

Permit – Required by these regulations unless stated otherwise.

Plat – A map, drawing, or chart on which the subdivider's plan of the subdivision is presented and which he submits for approval and which will be recorded in final form.

Potential Pollution Hazard – A Concentrated Animal Feeding Operation of 100 to 500 Animal Units may be classified as a Class D Operation by the County Zoning Officer when a Potential Pollution hazard exists. Factors to be considered by the Zoning Officer in determining a Potential Pollution hazard include the following:

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

Premises – A lot or parcel of land, improved or unimproved.

Process Generated Wastewater – Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas;

water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

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

Producer – The owner or operator of the concentrated livestock feeding operation.

Public Utility Substation – An area where facilities are provided for the distribution of telephone, radio communications, water, gas and electricity.

Residential Development Area – An area of land that is located in a residential zoning district or an area consisting of three (3) or more dwelling units within a 500 foot radius.

Resorts – Lodging, restaurant, bait shop, marina, or any combination of these.

Right-of-way – A strip of land separating private property from the existing road, street or alley or dedicated in public ownership.

Sediment Basin – A basin constructed to trap and store water-borne sediment and debris.

Setback – For purposes of the CAFO ordinance, setbacks for established residences will be determined as the horizontal distance measured from the wall line of a neighboring existing residential structure to the wall line of the proposed CAFO's lagoon/waste facility or lot yard pen, whichever is less.

Severe Property Damage – Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Shall – The condition is an enforceable requirement of this permit.

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

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

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

Shelterbelt – A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock, residences, recreational areas, and wildlife from wind.

Sign, Off-Site (Billboards) – A sign other than an exterior or interior on-site sign. Off-site signs are more conventionally known as billboards.

Sign, Exterior On-Site – A sign that is erected for purpose of being visible from the outside of the building or structure relating to said building or structure. Such signs will be regulated within this Ordinance.

Sign, Interior On-Site – A sign on the interior of the structure relating to subject matter to the premises which it is located, or to products, accommodations, services, or activities available on the premises. As long as any such sign is not normally visible from the exterior of the premises, it will not be regulated by this Ordinance.

Significant Contributor of Pollution – To determine if a feedlot meets this definition, the following factors are considered:

- a. Size of feeding operation and amount of manure reaching waters of the state;
- b. Location of the feeding operation in relation to waters of the state;
- c. Means of conveyance of manure and process wastewater into waters of the state; and
- d. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal manure and process wastewater into waters of the state.

Solid Waste – (reference SDCL 34A-6-1.3, 17.) Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations and from community activities, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges with are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1989, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1989.

Solid Waste Facility or Solid Waste Disposal Facility – (reference SDCL 34A-6-1.3,18.) All facilities and appurtenances connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained or operated to facilitate the disposal or storage of solid waste.

Solid Waste Management System – (reference SDCL 34A-6-1.3,19.) The entire process of storage, collection, transportation, processing and disposal of solid wastes by any person.

Street – A right-of-way, dedicated to public use, which affords a primary means of access to the abutting property.

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

Street-collector – Provides for traffic movement between major arterials and local streets, and direct access to abutting property.

Street-local – Provides for traffic movement between major arterials and local streets, and direct access to abutting property.

Street-major – Provides for the through traffic movement between areas and across the city, and direct access to abutting property; subject to necessary control of entrances, exits, and curb use.

Structure – Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but not limited to, buildings, mobile homes, walls, signs, billboards, and poster panels.

Subdivider – A natural person, firm, co-partnership, association or corporation who submits a proposed subdivision to the Planning Commission.

Subdivision – The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, or transfer of ownership or building development.

Travel Trailer – A vehicle built on a chassis designed to be used as a temporary dwelling for travel and/or recreational uses. The body of this vehicle has a width no exceeding eight (8) feet.

Truck or Trailer Terminal – Any lot, structure, or premises used for the parking or storage of capital equipment such as trucks, trailers, or other like equipment.

Unauthorized Releases – The discharge of water from the lower end of the treatment or containment system through a release structure or over or through retention dikes. An unauthorized release is distinguished from a bypass in that a bypass discharges wastewater prior to any treatment or containment.

Variance – A variance is a relaxation of the terms of the Zoning Ordinance where such variance is in relation to the regulations set forth onto the property and not results of the actions of the applicant, a literal enforcement of the Ordinance would result in the unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. This is not to be confused with a conditional use.

Water course, drainage way, channel or stream – A natural or man-made depression in which a current of surface run-off water flows following precipitation.

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

Yard – A required open space other than a court, unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the grade of the lot upward.

Yard, Front – A yard extending between side lot lines across the front of a lot adjoining a public street. Depth of a required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

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

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

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

Yard, Rear – A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yard, but only front and side yards. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

Zoning Complaints – All zoning complaints must be in writing and signed.

Zone A – Special Flood Hazard Areas subject to inundation by the 100-year flood.

Zone B – Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood.