

2019 REVISED WAKONDA ZONING ORDINANCE

*Prepared by the South Eastern Council of Governments at the direction of the
Planning Commission and Town Board of the Town of Wakonda, South Dakota*

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CHAPTER 1. GENERAL PROVISIONS

1.01 Title and Application. These regulations shall be referred to as the “2019 Revised Wakonda Zoning Ordinance”, or herein, as “this Ordinance”.

1.02 Jurisdiction. The provisions of this Ordinance shall apply to all territory within the municipal boundaries of the Town of Wakonda, South Dakota, as established on the Official Zoning Map of the Town of Wakonda.

1.03 Purpose. This Ordinance has been based upon the Wakonda Comprehensive Plan 2003-2025 adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws (SDCL). It is designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended to:

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

1.04 Provisions of Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this Ordinance either internally conflict or conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

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

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

1.07 Repeal of Conflicting Ordinances. All prior ordinances or parts of prior ordinances in conflict with this Ordinance are hereby declared repealed.

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

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

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

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

CHAPTER 2. DISTRICTS AND BOUNDARIES

2.01 General Regulations. The following general regulations shall apply to all zoning districts:

- A. Except as otherwise provided, a lot shall only be used:
 - 1. For a principal land use authorized in this Ordinance as either a Permitted or Conditional Use in the district in which it is located or proposed to be located;
 - a. Exception: The Authorized Official may determine that a proposed principal land use, while not specifically classified within a district as a Permitted or Conditional Use, is sufficiently similar to another land use so classified that it shall be treated similarly within that district. In reaching such a conclusion, the Authorized Official shall first evaluate the nature of the proposed land use, including, but not limited to, its potential generation of traffic, congestion, noise, odors, dust, litter, and similar impacts.
 - 2. In conformance with the lot, yard, and height requirements; the accessory use, parking, and sign regulations; and any other applicable requirements of the district in which the land use is located or proposed to be located; and
 - 3. In conformance with any federal, state, or local laws as may be applicable.
- B. Each lot shall be assigned only one (1) zoning district classification. If two (2) or more lots with different zoning district classifications are combined into one (1) lot, the Town shall concurrently follow the change of zone procedures in accordance with Chapter 14.
- C. All required permits shall be obtained in conformance with Chapter 12 and all other applicable building codes.
- D. One (1) Permitted or Conditional Use is allowed per lot in the AG and R Districts, except lots in the AG District may contain both a single-family detached dwelling and agricultural uses. Each principal building shall meet its zoning district's minimum setback requirements. Accessory buildings, structures, and land uses are allowed in conformance with Chapter 8.01.
- E. One (1) or more Permitted or Conditional Uses are allowed per lot in the CB, GB, and I Districts so long as each principal building meets the zoning district's minimum setback requirements. Accessory buildings, structures, and land uses are allowed in conformance with Chapter 8.01.

- F. The density, area, width, and yard requirements are minimum standards for each and every lot existing at the effective date of this Ordinance and for any building hereafter erected or structurally altered.
- G. Every building erected, converted, moved, enlarged, reconstructed, or structurally altered after the effective date of this Ordinance shall be on a lot adjacent to a public street, or with access to an approved private drive, and all structures shall be so located on lots as to provide safe and convenient access for servicing and required off-street parking.
- H. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of this Ordinance and all requirements shall be observed as though they were under single ownership.

2.02 Districts Designated. In order to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of the yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes; the Town is hereby divided into the following districts:

AG	Agricultural District
R	Residential District
CB	Central Business District
GB	General Business District
I	Industrial District

2.03 Adoption of Official Zoning Map. The Official Zoning Map of the Town of Wakonda, on record with the Finance Officer, is hereby adopted by reference and declared to be a part of this Ordinance.

2.04 Changes to Official Zoning Map. Changes to or replacement of the Official Zoning Map shall require amendment of this Ordinance in conformance with Chapter 14.

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

- A. Boundaries indicated as approximately following platted lot lines or corporate limits shall be interpreted to follow such platted lot lines or corporate limits;
- B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;
- C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;

- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground differ from those shown on the Official Zoning Map, the Zoning Board of Adjustment, as established in Chapter 13, shall interpret the district boundaries; and
- E. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Planning Commission may permit, by a conditional use permit, the extension of the regulations for either portion of the lot into the remaining portion of the lot.

2.06 Annexations. When possible, the Town will make every effort to conduct the rezoning of new properties concurrent with the annexation into the Town. When it is not possible to conduct the rezone concurrent with the annexation, the properties which may hereafter be annexed into the Town shall automatically be assigned the zoning district concurrent with or closest to the existing Clay County zoning classification until such time as the area is rezoned in conformance with this Ordinance.

CHAPTER 3. AG: AGRICULTURAL DISTRICT

3.01 Purpose. The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and wildlife habitats from encroachment by incompatible uses. It is ultimately the intent of this district that any lands being used for agriculture will be eventually transitioned into a more urban environment.

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

- A. Agriculture.
- B. Community garden.
- C. Public park, playground, trails, and/or swimming pool.
- D. Single-family detached dwelling.
- E. Undeveloped land.

Exception: A lot in the AG District may contain both a single-family detached dwelling and agricultural uses.

3.03 Conditional Uses. One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Planning Commission:

- A. Campground.
- B. Cemetery.
- C. Golf course, driving range, and/or country club.
- D. House of worship.
- E. Public service facility.
- F. Public utility facility.
- G. Telecommunications tower, antenna support structure, and/or wireless communications facility.

3.04 Prohibited Principal Land Uses. Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the AG District.

- 3.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and land uses permitted within the AG District shall be regulated in conformance with the provisions of Chapter 8.01.
- 3.06 Fence Regulations.** Fences within the AG District shall be regulated in conformance with the provisions of Chapter 8.02.
- 3.07 Off-Street Parking Regulations.** Off-street parking within the AG District shall be regulated in conformance with the provisions of Chapter 8.06.
- 3.08 Sign Regulations.** Signs within the AG District shall be regulated in conformance with the provisions of Chapter 8.05.
- 3.09 Lot Area, Yard, and Building Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the AG District shall be as follows:

A. General Requirements:

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Building Height
All uses	1 acre see #1	75 ft.	30 ft.	8 ft.	25 ft.	35 ft.

CHAPTER 4. R: RESIDENTIAL DISTRICT

- 4.01 Purpose.** The purpose of this district is to provide an area for residential uses in the community.
- 4.02 Permitted Uses.** Lots within the R District may be used for one (1) of the following principal purposes only:
- A. Community garden.
 - B. Manufactured home in conformance with Chapter 8.03.
 - C. Public park, playground, trails, and/or swimming pool.
 - D. Single-family attached dwellings.
 - E. Single-family detached dwelling.
 - F. Undeveloped land.
- 4.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Planning Commission:
- A. Assisted living facility or nursing home.
 - B. Day care center.
 - C. Group home.
 - D. House of worship.
 - E. Library, museum, and/or school.
 - F. Manufactured home park in conformance with Chapter 8.04.
 - G. Multi-family dwelling.
 - H. Public utility facility.
- 4.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R District.

- 4.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the R District shall be regulated in conformance with the provisions of Chapter 8.01.
- 4.06 Fence Regulations.** Fences within the R District shall be regulated in conformance with the provisions of Chapter 8.02.
- 4.07 Off-Street Parking Regulations.** Off-Street parking within the R District shall be regulated in conformance with the provisions of Chapter 8.06.
- 4.08 Sign Regulations.** Signs within the R District shall be regulated in conformance with the provisions of Chapter 8.05.
- 4.09 Lot Area, Yard, and Building Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the R District shall be as follows:

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Building Height
Single-family detached dwelling	4,000 sq. ft.	50 ft. see #2	15 ft.	5 ft.	20 ft.	35 ft.
Single-family attached dwelling	8,000 sq. ft.	100 ft./ 50 ft. per unit see #2	15 ft.	5 ft. see #1	20 ft.	35 ft.
Multi-family dwelling	1,000 sq. ft. per unit	50 ft. see #2	15 ft.	5 ft.	20 ft.	35 ft.
Manufactured Home Not Located Within a Licensed Manufactured Home Park	4,000 sq. ft.	50 ft. see #2	15 ft.	5 ft.	20 ft.	35 ft.
Licensed Manufactured Home Park	See Chapter 8.04.					

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Building Height
All other uses	4,000 sq. ft.	50 ft. see #2	15 ft.	7 ft.	25 ft.	35 ft.

Exceptions

- #1 The side yard is zero (0) feet on the party wall side of the structure.
- #2 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the front yard setback line; however, the minimum lot width at the front property line shall not be less than fifty (50) feet.
- #3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.

CHAPTER 5. CB: CENTRAL BUSINESS DISTRICT

5.01 Purpose. The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to preserving the downtown commercial core.

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

- A. Bank or financial institution.
- B. Community garden.
- C. Day care center.
- D. Funeral home/mortuary.
- E. Hotel, inn, or motel.
- F. House of worship.
- G. Meeting hall.
- H. Motor vehicle parking lot.
- I. Motor vehicle service station.
- J. Motor vehicle repair shop.
- K. Office.
- L. Personal service business.
- M. Post office or other government building.
- N. Public park, playground, trails, and/or swimming pool.
- O. Public service facility.
- P. Retail service or trade business.
- Q. Undeveloped land.

- 5.03 Conditional Uses.** One (1) or more of the following principal land uses may be allowed per lot after review and approval of a conditional use permit by the Planning Commission:
- A. Adult oriented business in conformance with SDCL 11-12 as modified herein.
 - B. Mixed-use commercial/residential.
 - C. Motor vehicle body shop.
 - D. Multi-family dwelling.
 - E. Public utility facility.
- 5.04 Prohibited Principal Buildings and Uses.** Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the CB District.
- 5.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the CB District shall be regulated in conformance with the provisions of Chapter 8.01.
- 5.06 Fence Regulations.** Fences within the CB District shall be regulated in conformance with the provisions of Chapter 8.02.
- 5.07 Off-Street Parking Regulations.** Off-street parking within the CB District shall be regulated in conformance with the provisions of Chapter 8.06.
- 5.08 Sign Regulations.** Signs within the CB District shall be regulated in conformance with the provisions of Chapter 8.05.
- 5.09 Lot Area, Yard, and Building Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the CB District shall be as follows:
- A. The average front and rear yard setback existing on each street shall apply.
 - B. There are no side yard or lot area restrictions.
 - C. When abutting the R District, principal buildings shall have a minimum front yard of twenty (20) feet, minimum rear yard of twenty (20) feet, and minimum side yards of ten (10) feet. This rule only applies to the side yard actually abutting the R District. Any side yard not abutting the R District is not required to meet this setback requirement.
 - D. The maximum height of all buildings and structures shall not exceed forty-five (45) feet.

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

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

CHAPTER 6. GB: GENERAL BUSINESS DISTRICT

6.01 Purpose. The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space.

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

- A. Bank or financial institution.
- B. Car wash.
- C. Day care center.
- D. Funeral home/mortuary.
- E. Greenhouse/nursery.
- F. Hotel, inn, or motel.
- G. Hospital or clinic.
- H. House of worship.
- I. Office.
- J. Meeting hall.
- K. Motor vehicle parking lot.
- L. Motor vehicle repair shop.
- M. Motor vehicle service station.
- N. Motor vehicle sales, display, service, and/or rental.
- O. Personal service business.
- P. Post office or other government building.
- Q. Public park, playground, trails, or swimming pool.

- R. Public service facility.
- S. Retail service or trade business.
- T. Theater.
- U. Undeveloped land.

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

- A. Adult oriented business in conformance with SDCL 11-12 as modified herein.
- B. Building, construction, farm, and/or industrial equipment sales, display, service, and/or rental.
- C. Campground.
- D. Commercial kennel.
- E. Consumer storage building.
- F. Golf course, driving range, or country club.
- G. Mixed-use commercial/residential.
- H. Motor vehicle body shop.
- I. Petroleum tank farm.
- J. Public utility facility.
- K. Recreational facility.

6.04 Prohibited Principal Buildings and Uses. Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the GB District.

6.05 Accessory Buildings, Structures, and Uses. Accessory buildings, structures, and uses permitted within the GB District shall be regulated in conformance with the provisions of Chapter 8.01.

6.06 Fence Regulations. Fences within the GB District shall be regulated in conformance with the provisions of Chapter 8.02.

6.07 Off-Street Parking Regulations. Off-street parking within the GB District shall be regulated in conformance with the provisions of Chapter 8.06.

6.08 Sign Regulations. Signs within the GB District shall be regulated in conformance with the provisions of Chapter 8.05.

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

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Building Height
All uses	NA	NA	30 ft.	7 ft. see #1	15 ft. see #2	45 ft.

Exceptions

#1 A side yard of ten (10) feet shall be required where a lot is adjacent to or abuts the R District. This rule only applies to the side yard actually abutting the R District. Any side yard not abutting the R District is not required to meet this setback requirement.

#2 A rear yard of twenty-five (25) feet shall be required where a lot is adjacent to or abuts a residential district.

#3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.

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

A. No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, gasoline, motor fuels, or welding gasses.

B. Activities shall be prohibited which emit air contaminants, smoke, odors, gasses, noise, or vibrations which are evident beyond the property lines of the lot upon which such activity is to be located.

CHAPTER 7. I: INDUSTRIAL DISTRICT

7.01 Purpose. The purpose of this district is to provide a number of manufacturing, wholesale, warehousing, and service uses in an attractive industrial park-like setting.

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

- A. Agriculture related facility involving the handling, storage, processing, and/or shipping of farm products.
- B. Building, construction, farm, and/or industrial equipment sales, display, service, and/or rental.
- C. Consumer storage building.
- D. Contractor's shop and storage yard.
- E. Frozen food locker.
- F. Light manufacturing.
- G. Motor vehicle body shop.
- H. Motor vehicle parking lot.
- I. Motor vehicle repair shop.
- J. Motor vehicle sales, display, service, and/or rental.
- K. Public utility facility.
- L. Stone and monument works.
- M. Truck and freight terminal.
- N. Undeveloped land.
- O. Warehouse or storage house used for the warehousing or storage of non-hazardous products and materials.
- P. Wholesale merchandise sales and storage house for commercial warehousing and storage of non-hazardous materials either in mass or bulk.

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

- A. Broadcast tower.
- B. Crematory.
- C. Extraction of rock, sand, and/or gravel.
- D. General manufacturing.
- E. Machine shop or other metal working establishment.
- F. Mineral exploration and development.
- G. Motor vehicle wrecking yard, junkyard, salvage yard, or scrap processing facility.
- H. Municipally owned waste water treatment facility.
- I. Recycling collection or processing facility.
- J. Sanitary landfill and/or solid waste transfer station.
- K. Smelting or boilerworks.
- L. Tank farm/petroleum products terminal.
- M. Telecommunications tower, antenna support structure, and/or wireless communications facility.
- N. Warehouse or storage house used for the warehousing or storage of hazardous products and materials.
- O. Wholesale merchandise sales and storage house including the commercial warehousing and storage of hazardous materials either in mass or bulk.
- P. Wind energy conversion system.

7.04 Prohibited Principal Buildings and Uses. Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the I District.

7.05 Accessory Buildings, Structures, and Uses. Accessory buildings, structures, and uses permitted within the I District shall be regulated in conformance with the provisions of Chapter 8.01.

- 7.06 Fence Regulations.** Fences within the I District shall be regulated in conformance with the provisions of Chapter 8.02.
- 7.07 Off-Street Parking Regulations.** Off-street parking within the I District shall be regulated in conformance with the provisions of Chapter 8.06.
- 7.08 Sign Regulations.** Signs within the I District shall be regulated in conformance with the provisions of Chapter 8.05.
- 7.09 Lot Area, Yard, and Building Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the I District shall be as follows:

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Building Height
All uses	NA	60 feet	20 feet	10 feet see #2	20 feet see #3	45 feet see #1

Exceptions

- #1 A conditional use permit will be required for any structure having a maximum height exceeding forty-five (45) feet.
 - #2 A side yard of twenty (20) feet shall be required only where a lot is adjacent to or abuts the R District.
 - #3 A rear yard of twenty-five (25) feet shall be required where a lot is adjacent to or abuts the R District.
 - #5 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- 7.10 Additional Regulations Applicable to All Buildings and Uses in the I District.** To be a Permitted or Conditional Use in the I District, such use must meet the following performance standards:
- A. Fire Hazard. All flammable substances shall be handled in accordance with the laws of the State of South Dakota and other applicable federal, state, and local regulations.
 - B. Noise. All noises and noise causing activities shall be muffled so that they will not create a disturbance in any abutting or adjacent lot zoned R, CB, or GB.

- C. Air Contaminants. Emissions of contaminants and smoke shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- D. Gasses and Odors. Emissions of gasses and odors shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- E. Vibration. All machines, including punch presses and stamping machines, shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

CHAPTER 8. ADDITIONAL USE REGULATIONS

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

- A. No building, structure, or land use shall be constructed, developed, or exist on a lot prior to construction of a principal building or commencement of a principal land use.
- B. Any building or structure placed within an easement that impedes the access or intended use of that easement may be removed by the Town or the Town's agent at its owner's expense.
- C. Accessory buildings and structures are allowed by right in the side and rear yards. Any person seeking to build, construct, move, or otherwise locate an accessory building or structure in the front yard must obtain a conditional use permit in conformance with Chapter 15.
- D. No accessory buildings or structures shall be erected or maintained which violate Chapter 8.08 – Visibility at Intersections and Driveways.
- E. Any building or structure with floor area greater than one hundred fifty (150) square feet shall be secured to the ground to prevent it from being moved or damaged by high winds typical of the area.
- F. In the R District, accessory buildings, structures, and uses are limited to the following:
 - 1. Noncommercial recreational buildings or structures including, but not limited to, tennis courts, swimming pools, barbeque pits, pergolas, greenhouses, workshops, playhouses, and gazebos.
 - 2. A private residential garage used only for the storage of noncommercial vehicles and other household items.
 - 3. Residential storage buildings including, but not limited to, garden sheds.
 - 4. Cloth, canvas, plastic sheets and tarps, and corrugated siding are not allowed as primary materials, except greenhouses are allowed to have sheeting (glass or plastic) of prescribed building thickness as an outer covering. Corrugated metal is not a permitted roofing material.

- 5. The architectural design of and materials used for fully enclosed accessory buildings larger than one hundred-fifty (150) square feet must be similar to the principal structure.
- 6. Fences, while an accessory structure, shall be regulated in conformance with Chapter 8.02.
- G. Accessory buildings and structures may not be used for dwelling purposes.

8.02 Fences. Fences shall conform to the following standards:

- A. No barbed wire fence shall be erected or maintained in the R and CB Districts.
- B. Exposed electrical and other abnormally dangerous fences are prohibited within all zoning districts.
- C. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.
- D. For the AG, R, and CB Districts - Fences up to eight (8) feet in height may be erected or maintained on any part of a lot other than in the front yard setback. Fences erected or maintained in the front yard setback may not exceed four (4) feet in height.
- E. For the GB and I Districts - Fences up to eight (8) feet in height may be erected or maintained on any part of the lot.
- F. No fence shall be erected which violates Chapter 8.08 – Visibility at Intersections and Driveways.
- G. To preserve the neighborhood character of the R District, fences constructed or maintained within the front yard setback shall be of a traditional open-faced design including, but not limited to, white picket, chain link, and split rail.
- H. Chain link fences for tennis courts, basketball courts, baseball fields, or similar outdoor recreational uses may be erected or maintained to a maximum height of twelve (12) feet provided that the area to be enclosed is not located with either the front, side, or rear yard setbacks.
- I. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.
- J. The side of the fence considered the face (facing as applied to fence post) should face abutting property.

- K. In the event a fence is to be constructed on the property line, abutting property owners shall be notified prior to the issuance of a permit. It is recommended, but not required, that the property owners sign a fence maintenance agreement and file it with the Finance Officer and Clay County Register of Deeds.
- L. Fences shall be placed in such a manner as to allow the Town access for purposes of reading or maintaining utility meters.
- M. Any fence placed within an easement that impedes the access or intended use of that easement may be removed by the Town or the Town's agent at its owner's expense.
- N. Walls, hedges, or similar plantings and structures which create a fence effect are subject to the same regulations as fences.

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

- A. The manufactured home shall meet or exceed the current federal Manufactured Home Construction and Safety Standards.
- B. Each manufactured home shall be properly secured to the ground with either a permanent foundation extending no less than four (4) feet below grade or with tie downs installed as recommended by the manufacturer. Any tie downs shall be installed prior to occupancy. In no event shall they be more than twelve (12) feet apart along the perimeter of the structure or extend down less than four (4) feet below grade.
- C. Each manufactured home shall be skirted with material approved by the Authorized Official. Skirting shall be installed prior to occupancy and in a manner recommended by the manufacturer. Skirting shall be of a material which is compatible with the appearance and condition of neighboring dwelling units. Appropriate materials shall include commercially manufactured colored steel, fiberglass, plastic, brick, or other similar materials.
- D. The manufactured home shall be aesthetically compatible with neighboring dwelling units, including, but not limited to, the following factors: width, length, area, number of stories, siding and roofing materials, roof style and pitch, and condition.
- E. No manufactured home to be placed within the Town shall exceed twenty (20) years from its date of manufacture.

8.04 Manufactured Home Park Requirements. A park intended for the placement of manufactured homes on rented lots and where the roads are not publicly dedicated shall require a site-plan showing the layout of the park, including internal rented stall lines, the

road system, and spacing diagram of all buildings and structures. Upon approval of the site plan and a conditional use permit for the park, the site-plan shall be filed with the Authorized Official and govern all future development.

8.05 Sign Regulations.

- A. Purpose. These regulations are designed to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. They are not intended to censor speech or to regulate viewpoints, but instead are intended to address the secondary effects of signs, specifically those that impact aesthetics, traffic, and pedestrian safety. This Chapter is not intended to regulate objects that traditionally are not considered signs for purposes of governmental regulation.
- B. General Regulations. The following regulations shall apply to all signs unless otherwise indicated:
 - 1. Except as required by law, no sign shall be displayed without the consent of the legal owner of the lot on which the sign is located. For purposes of this section, the term “owner” shall mean the holder of the legal title to the lot and any party and person holding a present legal right to possession, control, or use of the lot.
 - 2. Except as required by law or otherwise permitted by the Town, any sign installed or placed on public property shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the Town shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of such sign.
 - 3. No sign shall project over the public right-of-way or sidewalk unless the building or structure to which the sign is attached is less than five (5) feet from said right-of-way or sidewalk. In such situations, the sign shall be placed at an adequate height so as to not interfere with pedestrians, vehicular traffic, or snow removal.
- C. Signs Not Regulated. The following signs are allowed in addition to the signs permitted by this Ordinance:
 - 1. Names of buildings, dates of erection, monumental citations, commemorative tablets and the like, of permanent-type construction and made an integral part of the building structure.
 - 2. Signs located entirely inside the premises of a building or other enclosed space.
 - 3. Signs erected by the City or any other governmental entity.

4. Signs regulated, approved, or otherwise required by state or federal agencies including, but not limited to, historical marker signs, official traffic control device signs, etc.
5. Holiday lights and decorations displayed during the appropriate time of year.
6. National, state, or historical flags or their emblem or insignia.

D. Prohibited Signs.

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

E. Permanent Signs. The following requirements shall apply to all permanent signs as defined herein:

1. General Standards. All permanent signs shall meet the following general standards:
 - a. All signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment, frame, or sign structure.
 - b. All signs shall be constructed to withstand a wind load of thirty (30) pounds per square foot.
2. Lots Containing a Manufactured Home or Single-Family Dwelling. Each lot may have two (2) wall or freestanding signs. Each sign shall be a maximum of four (4) square feet in area and shall not exceed two (2) feet in height above grade if placed as a freestanding sign.

3. Lots Containing a Multi-Family Dwelling. Each lot may have one (1) wall or freestanding sign not exceeding fifty (50) square feet. Additionally, each individual dwelling unit in a multi-family dwelling may have one (1) wall or freestanding sign if immediately accessed through an exterior door. Each such sign shall be a maximum of four (4) square feet in area and shall not exceed two (2) feet in height above grade if placed as a freestanding sign.
4. R District Lots Not Containing a Dwelling. Each lot may have one (1) wall or freestanding sign not exceeding one hundred (100) square feet. The sign shall not exceed ten (10) feet in height above grade if placed as a freestanding sign.
5. CB and GB Lots.
 - a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed three (3) square feet per one (1) foot of lineal street frontage with a maximum of two hundred (200) square feet. Roof and projecting signs may not be located higher than five (5) feet above the building's roof line.
 - b. Freestanding signs shall be permitted so long as their cumulative total area per lot does not exceed one (1) square foot per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. Each lot shall be limited to (1) per street frontage except that businesses on frontage of two hundred (200) feet or more may erect two freestanding signs. They shall not be taller than eighteen (18) feet above grade in the CB District and thirty (30) feet above grade in the GB District.
6. AG, LI, and HI.
 - a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed one (1) square foot per three (3) feet of lineal street frontage.
 - b. Freestanding signs shall be permitted so long as each does not exceed one (1) square foot of area per three (3) lineal feet of street frontage. Each lot shall be limited to one (1) per street frontage except that businesses on frontages of two hundred (200) feet or more may erect two freestanding signs.
 - c. Any sign that exceeds two hundred (200) square feet in area must be located at least five hundred (500) feet from a residential zoning district or another sign two hundred (200) square feet in area or larger.

- F. Temporary Signs. The following requirements shall apply to all temporary signs as defined herein:
1. No temporary sign may be illuminated in any manner.
 2. Any temporary sign larger than or equal to nine (9) square feet in area shall be located at least ten (10) feet from all property lines.
 3. Signs shall be kept in good condition. Faded, torn, damaged, or otherwise unsightly signs must be repaired or removed. Signs that are not maintained shall either be removed or brought into compliance immediately upon verbal or written notice from the Authorized Official. Any expenses incurred by the City during the removal or maintenance of a private sign shall be the responsibility of its owner.
 4. Signs shall be securely attached to a sign support, building, or other structure.

8.06 Off-Street Parking Requirements.

- A. In the R District, no parking is permitted within the front yard except for hard-surfaced driveways or as otherwise provided in this Ordinance. For purposes of this provision, hard surfacing includes asphalt, concrete, gravel, stone, and similar materials.
1. Exception: This provision may be waived on a case-by-case basis if the lot's occupant, whether owner or tenant, has obtained a Handicapped Parking Permit from the South Dakota Department of Revenue or its equivalency from another jurisdiction. In such a case, a hard-surfaced parking pad within the front yard is permitted.
- B. In the R District, parking is permitted in a side yard or rear yard, provided it is not closer than two (2) feet to the property line.
1. Exception: Recreational vehicles may be parked up to the property line so long as they are situated on a hard-surfaced parking pad. For purposes of this provision, hard surfacing includes asphalt, concrete, gravel, stone, and similar materials.
- C. Each parking space shall be directly accessible to an access lane.
- D. Except in conjunction with a legal nonconforming business or the performance of a service, it shall be unlawful for any person to park, store, leave, or permit the parking, storing, or leaving of any commercial vehicle with a Gross Vehicle Weight Rating (GVWR) of over ten thousand (10,000) pounds in the R District.

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

- A. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete, approved concrete products, or another commercially acceptable material suitable for the same purpose.
- B. All dwellings shall be oriented on the lot so that the primary pedestrian entrance faces the street or access easement.
- C. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. Corrugated metal is not a permitted roofing material.
- D. Exterior walls shall be constructed of materials commonly used on the exterior walls of residential structures, such as: brick, concrete composite board, artificial or natural stone, exterior grade natural or composite wood, stucco, or residential lap siding made of vinyl, steel, or aluminum with no exposed fasteners.

8.08 Visibility at Intersections and Driveways.

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

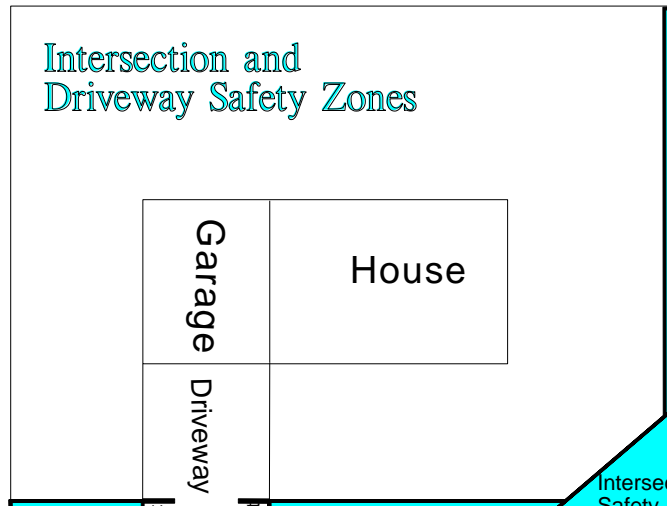


Figure 1

CHAPTER 9. ADJUSTMENTS TO YARD REGULATIONS

- 9.01 Adjustment to Front Yard Requirements.** A front yard setback may be reduced to the average of the adjacent buildings' front yards where existing adjacent buildings are located closer to the front property line than required.
- 9.02 Adjustment to Side Yard Requirements.** Buildings constructed prior to the effective date of this Ordinance with side yard setbacks less than required by this Ordinance may have additions erected in line with the existing building. Any addition shall be erected no closer to the property line than the existing building.
- 9.03 Projection from Buildings.** Every part of any required yard shall be open to the sky and unobstructed except:
- A. Awnings, canopies, eaves, and similar projections may extend into a front, side, or rear yard.
 - B. Air conditioners may project into a required side or rear yard setback.
 - C. An open, unenclosed, and uncovered deck or paved patio may project into a required front yard for a distance not exceeding ten (10) feet. It may project into a required side or rear yard so long as it is at least five (5) feet from the adjacent lot line.

CHAPTER 10. NON-CONFORMING USES AND NON-STANDARD LOTS

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

- A. Whenever a non-conforming use has been changed to an authorized Permitted or Conditional Use, it shall not be changed back to a non-conforming use.
- B. Should any non-conforming building or structure be destroyed by any means to the extent of more than fifty (50) percent of its replacement cost, the remaining portion shall be demolished and removed from the lot.
- C. When a non-conforming use is discontinued for a period of one (1) year, the City Council may adopt, after notice by mail or hand delivery to the property owner(s), an amortization schedule to bring about the gradual elimination of such nonconforming use.
- D. Any non-conforming use may be extended throughout any part of a building or structure that was arranged or designed for such use prior to the adoption or amendment of this Ordinance, but shall not be extended outside such structure unless required by law.
- E. An existing non-conforming building or structure shall not be enlarged, moved, or structurally altered except to change to an authorized Permitted or Conditional Use or as otherwise required by law. This is not designed to prevent normal repairs and maintenance that do not enlarge, move, or structurally alter a non-conforming building or structure.

10.02 Merger of Non-Standard Lots. If two (2) or more contiguous lots are held in common ownership prior to the issuance of a building permit for any of the lots in conformance with Chapter 12, they shall be replatted into one (1) lot to the extent necessary to meet the zoning district's minimum lot and yard requirements if: (1) all share the same zoning district classification; (2) any of the lots do not individually meet the minimum lot and yard requirements of the zoning district in which they are located; and (3) any of the lots are undeveloped or contain no principal building or structure.

10.03 Merger of Simultaneously Improved Lots. When improvements are proposed involving two (2) or more contiguous lots held in common ownership, said lots shall be replatted into one (1) lot prior to the issuance of a building permit in conformance with Chapter 12.

CHAPTER 11. ADMINISTRATION AND ENFORCEMENT

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

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

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

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

CHAPTER 12. BUILDING AND CHANGE OF USE PERMITS

12.01 Building Permits.

A. Permit Required. It shall be unlawful for any person, firm, or corporation to erect, construct, change, enlarge, improve, move, or otherwise physically alter any building or structure regulated by this Ordinance or cause the same to be done without first obtaining a separate building permit for each proposed building, structure, or work project. There are two types of building permits as stated below.

1. Class 1 Building Permit. A Class 1 Building Permit is required any time a building or structure is erected, partially erected, relocated on the same lot, demolished, or is otherwise altered in such a way that changes its physical dimensions.
2. Class 2 Building Permit. A Class 2 Building Permit is required for alterations that do not change the physical dimensions of the building or structure itself. Additionally, this type of building permit shall include emergency repairs so long as the application is limited to only the structural damage caused by the emergency. More extensive repairs shall require a Class 1 Building Permit.

Exception: No building permit shall be required for any interior remodels; replacement of siding, shingles, painting, or windows with the same or substantially similar materials; and other non-structural changes to a principal building valued at less than one thousand dollars (\$1,000).

B. Application. To obtain a building permit, the applicant shall submit an application to the Authorized Official on a form as provided. Every application shall contain the following information:

1. Legal description or address of the lot for which the building permit is requested.
2. Name, address, and telephone number of every owner of the lot for which the building permit is requested.
3. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
4. A description of the work to be covered by the permit for which the application is made.
5. A site plan in conformance with Chapter 12.03.

A site plan is not required if the applicant is applying for a Class 2 Building Permit.

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

C. Permit Approval.

1. Class 1 Building Permit. Once submitted pursuant to Chapter 12.01(B), the application shall be reviewed by the Authorized Official. He or she shall determine whether the application contains all the required information. If it does not, he or she shall notify the applicant(s) either in person or in writing and note any missing information. If it contains all the required information or has been supplemented to contain all the required information, the application shall be forwarded to the Planning Commission for review at its next regularly scheduled meeting. The Authorized Official may include a written statement regarding whether he or she feels the application meets the requirements of this Ordinance. If a majority of the Planning Commission determines that the application meets the requirements of this Ordinance and other pertinent laws and regulations, it shall approve the permit.
2. Class 2 Building Permit. Once the application has been submitted pursuant to Chapter 12.01(B), the Authorized Official shall determine whether the applications contains all the required information. If it does not, he or she shall notify the applicant(s) either in person or in writing and note any missing information. If it contains all the required information or has been supplemented to contain all the required information, he or she has two options: (1) make a decision, or (2) forward the application to the Planning Commission for review.

12.02 Change of Use Permits.

- A. Permit Required. It shall be unlawful for any person, firm, or corporation to change the principal land use of any lot, building, or structure regulated by this Ordinance, or cause the same to be done, without first obtaining a change of use permit from the Authorized Official.

Exception: A separate change of use permit is not required if the applicant is applying for a conditional use permit for the same lot, building, or structure.

- B. Application. To obtain a change of use permit, the applicant shall file an application with the Authorized Official on a form as provided. Every application shall contain the following information:

1. Legal description or address of the lot for which the change of use is requested.
 2. Name, address, and phone number of every owner of the lot for which the change of use is requested.
 3. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
 4. The principal land use classification(s) requested by the application.
 5. A site plan in conformance with Chapter 12.03.
 6. Be signed by the applicant, who may be required to submit evidence to indicate such authority if the lot has more than one owner.
 7. Any other information concerning the lot, its current principal land use(s), or requested principal land use(s) as may be required by the Authorized Official.
- C. Permit Approval. Once submitted pursuant to Chapter 12.02(B), the application shall be reviewed by the Authorized Official. He or she shall determine whether the application contains all the required information. If it does not, he or she shall notify the applicant(s) either in person or in writing and note any missing information. If it contains all the required information or has been supplemented to contain all the required information, he or she shall issue the permit.

12.03 Information on Site Plan. Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapters 12.01 and 12.02 shall contain the following information:

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

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

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

12.04 Validity of Permit. The issuance or granting of a permit or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Ordinance or of any other ordinance of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of this Ordinance shall be invalid.

12.05 Fees. Upon the filing of any application for either a building or change of use permit with the Authorized Official, the applicant shall pay the Town the appropriate fee in conformance with Chapter 16.

12.06 Expiration. Every permit issued under the provisions of this Ordinance shall expire by limitation and become null and void if the building, work, or use authorized by such permit is not commenced within ninety (90) days from the date of issuance thereof, or if the building, work, or use authorized by such permit has not been substantially completed within one (1) year of the date of issuance thereof. Written notice of the permit's expiration shall be provided to the applicant either by mail or hand delivery, together with a statement that further work or the use described in the permit shall not proceed unless and until a new permit has been obtained.

The Authorized Official may, except as otherwise provided herein, extend the duration of a permit for a period not exceeding one hundred-eighty (180) days upon written request by the permittee showing that circumstances beyond his or her control have prevented the work or change of use from occurring.

12.07 Suspension or Revocation. The Authorized Official may, in writing, suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued in error or on the basis of incorrect information supplied by the applicant.

CHAPTER 13. ZONING BOARD OF ADJUSTMENT

13.01 Establishment. The Zoning Board of Adjustment is hereby established for the Town of Wakonda, which shall consist of persons appointed by the Town Board pursuant to SDCL 11-4-14.

13.02 Powers and Duties. The Zoning Board of Adjustment shall have the following powers and duties:

- A. To hear and decide appeals where it is alleged that the Authorized Official has made an error in any requirement, interpretation, or determination made in the enforcement of this Ordinance.
- A. To hear and decide appeals where it is alleged that the Planning Commission has made an error either in the issuance or the failure to issue a conditional use permit in conformance with Chapter 15.
- C. To hear and decide upon petitions for variances to alter the strict application of the height, area, setback, yard, parking, or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary a zoning district's list of authorized principal Permitted and Conditional uses.

13.03 Appeal Procedure.

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

findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to reverse any requirement, interpretation, or determination of the Authorized Official or Planning Commission.

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

- A. An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Zoning Board of Adjustment.
- B. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
- C. The variance requested is the minimum variance that will alleviate the hardship.
- D. Granting of the variance will comply with the general purpose and intent of this Ordinance, and will not be offensive to adjacent areas or to the public welfare.
- E. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.
- F. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.
- G. In order to preserve the intent of this Ordinance as well as protect the public interest, the Zoning Board of Adjustment may attach conditions to a variance. A variance shall remain valid only as long as the property owner complies with any terms and conditions of the variance.
- H. An application for a variance, available from the Authorized Official, shall be completed by the landowner requesting the variance. Completed applications shall

be returned to the Authorized Official for review. To be considered completed, the application shall contain the following information:

1. Legal description or address of the lot for which such variance is requested;
 2. Name and address of each owner of the lot;
 3. Name, address, phone number, and signature of the applicant if made by anyone other than the lot's owner;
 4. Zoning district classification under which the lot is regulated at the time of such application;
 5. Description of the variance sought; and
 6. Be accompanied with a site plan, unless waived by the Authorized Official.
- I. The Authorized Official shall review the application and shall make a recommendation to the Zoning Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation may include a summary of the application and the reasons and justifications for either approval or denial of the application.
- J. The Authorized Official shall set the date, time, and place for a public hearing to be held by the Zoning Board of Adjustment. At least ten (10) days prior to the date of the scheduled public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at City Hall, on the lot subject to the proposed variance in conformance with SDCL 11-4-4.4, and on the Town's website; and shall publish notice of the public hearing in a legal newspaper of the Town.
- K. The public hearing shall be held. The applicant may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Zoning Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any variance.

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

CHAPTER 14. AMENDMENTS AND CHANGE OF ZONE

14.01 General. Any person, firm, or corporation desiring a change to the Official Zoning Map or text of this Ordinance shall file an application for such change with the Authorized Official. Additionally, the Town Board may from time to time on its own motion, after public notice and hearing, and after a recommendation from the Planning Commission, amend, supplement, or change the Official Zoning Map or text of this Ordinance.

14.02 Application. In petitioning the Town for a change to the Official Zoning Map, any person, firm, or corporation shall file an application with the Authorized Official on a form as provided. Every application shall contain the following information:

- A. Legal description or address of the lot for which the change of zone is requested.
- B. Name, address, and phone number of the owner of the lot which is the subject of such application.
- C. The zoning district and principal land use classification(s) under which the lot is regulated at the time of the application.
- D. The zoning district classification requested by the application.
- E. A site plan in conformance with Chapter 14.03.
- F. Any other information concerning the lot as may be requested by the Authorized Official.

14.03 Information on Site Plan. Plans of sufficient clarity to indicate the location and use classification of any existing buildings shall be provided to the Authorized Official. Where applicable, all site plans required in Chapter 14.02(E) shall contain the following information:

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

- G. Dimensions of all property lines.

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

14.04 Fees. Upon the filing of any application for an amendment or change of zone with the Authorized Official, the applicant shall pay the Town the appropriate fee in conformance with Chapter 16.

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

- A. The Authorized Official shall review the application for an amendment or change of zone and forward the application and his or her comments to the Planning Commission for review.
- B. The Authorized Official shall set the date, time, and place for a Planning Commission public hearing. The Authorized Official shall publish notice of the public hearing in a legal newspaper of the Town and on the Town's website at least ten (10) days prior to the public hearing. At least one (1) sign in conformance with SDCL 11-4-4.4 shall be posted on the lot for a continuous period of ten (10) days immediately prior to any public hearing held by the Planning Commission to consider any change of zone application.
- C. The public hearing shall be held. Any person or persons may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- D. The Planning Commission shall either recommend or not recommend approval of the amendment or change of zone to the Town Board.
- E. The Authorized Official shall set the date, time and place for a Town Board public hearing. The Authorized Official shall publish notice of the public hearing in a legal newspaper of the Town and on the Town's website at least ten (10) days prior to the public hearing. At least one (1) sign in conformance with SDCL 11-4-4.4 shall be posted on the lot for a continuous period of ten (10) days immediately prior to any public hearing held by the Town Board to consider any change of zone application.
- F. The Town Board shall either approve or not approve the ordinance describing the proposed amendment or change of zone to this Ordinance in accordance with standard procedures for reading, approval, publication, and effective date as established by South Dakota law.

- G. When a proposed amendment or change of zone is approved by the Town Board, the amendment shall take effect twenty (20) days after the date of publication in a legal newspaper of the Town, unless the referendum shall have been invoked.

CHAPTER 15. CONDITIONAL USE PERMITS

15.01 General. The Planning Commission may authorize, by conditional use permit, both those principal uses specifically designated as Conditional Uses in Chapters 3 through 7 and any other building, structure, or land use requiring such a permit pursuant to the terms of this Ordinance. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare of the community.

15.02 Application. To obtain a conditional use permit, the applicant shall file an application in writing on a form furnished by the Authorized Official. Every application shall contain the following information:

- A. Legal description or address of the lot on which such conditional use is requested.
- B. Name, address, and phone number of the owner of the lot which is the subject of such application.
- C. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
- D. The principal land use classification(s) requested by the application.
- E. A site plan in conformance with Chapter 15.04.
- F. Any other information concerning the lot as may be requested by the Authorized Official.

15.03 Fees. Upon the filing of any application for a conditional use permit with the Authorized Official, the applicant shall pay to the Town the appropriate fee in conformance with Chapter 16.

15.04 Information on Site Plan. Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapter 15.02(E) shall contain the following information:

- A. The address of the lot or its legal description.
- B. The name of the project and/or business.
- C. A north arrow.
- D. All existing and proposed buildings or additions.

- E. Dimensions of all buildings.
- F. Distance from all building lines to the property lines at the closest points.
- G. Building height and number of stories.
- H. Dimensions of all property lines.
- I. Parking lots or spaces: designate each space and give dimensions of the parking lot(s), stall(s), and aisle(s).
- J. Screening: show height, location, and type of material to be used.
- K. Landscaped setback and trees: indicate species of trees and material(s) to be used for landscaping.

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

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

15.05 Review and Public Hearing Procedure. Prior to the approval of a conditional use permit, the Authorized Official shall review the application. After review of the application, the Authorized Official shall make a recommendation to the Planning Commission to either approve or not approve said application. The Authorized Official's recommendation may include a summary of the application and the reasons and justification for either approval or denial of the application.

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

The following procedure shall be followed by the Planning Commission in considering the recommendation of the Authorized Official:

1. The public hearing shall be held. Any person or persons may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
2. Before any conditional use permit shall be granted, the Planning Commission shall

make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

1. Ingress and egress to the lot and any proposed buildings or structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
2. Off-street parking and loading areas where required;
3. Refuse and service areas, with particular reference to (a) and (b) above;
4. Utilities, with reference to locations, availability and compatibility;
5. Screening and buffering with reference to type, dimensions and character;
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;
7. Required yards and other open space;
8. General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;
9. The goals and objectives of the most recently adopted Comprehensive Plan.

The Planning Commission shall decide whether to grant the conditional use permit with such conditions and safeguards as are appropriate or to deny the permit when not in harmony with the purpose and intent of this Ordinance. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Chapter 15.06.

15.06 Appeal of Planning Commission Decision. The decision rendered by the Planning Commission on a conditional use permit application or the terms of such a permit may be appealed to the Zoning Board of Adjustment in conformance with Chapter 13.03.

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

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

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

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

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

- A. Basis for Review. Noncompliance with any of the terms, conditions, or requirements placed on a conditional use permit is sufficient cause to subject such permit to review by the Zoning Board of Adjustment.
- B. Procedure. If the Zoning Administrator is reasonably satisfied there exists any noncompliance with the terms, conditions, or requirements of a conditional use permit, the Zoning Administrator shall give written notice of such noncompliance to the person, firm, corporation, or entity to which the permit was granted. Additionally, the Zoning Administrator shall advise the Zoning Board of Adjustment of such noncompliance at its next regularly scheduled meeting. Upon such advisement, the Zoning Board of Adjustment shall set a time for review of the permit at a subsequent regularly scheduled meeting. The review shall take place at a public hearing open to the public.
- C. Notice of Review Hearing. At least ten (10) days prior to the date of the scheduled review public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at the Town Office, on the lot subject to the review hearing, and on the Town's website; and shall publish notice of the public hearing in a legal newspaper of the Town.
- D. Hearing. In the event the Zoning Board of Adjustment determines by a vote of two-thirds (2/3) of its members that the person, firm, corporation, or entity to which the permit was granted is or has acted contrary to the terms of its conditional use permit, it may do any of the following:
 - 1. Revoke the permit.
 - 2. Amend the permit.
 - 3. Postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions, and requirements of the permit in question.
 - 4. Require any other such action it deems appropriate and in accordance with the provisions of this Chapter.

- E. Effect of Revocation. Any person, firm, corporation, or entity to which a conditional use permit has been granted and subsequently revoked by the Zoning Board of Adjustment may not apply for a similar or substantially similar conditional use permit for a period of six (6) months.
- F. Appeal of Zoning Board of Adjustment Decision. The decision rendered by the Zoning Board of Adjustment related to its decision whether to revoke a conditional use permit or any amendments made thereto may be appealed to a court of competent jurisdiction in conformance with SDCL 11-4-25.

CHAPTER 16. FEES

16.01 General Regulations. Unless otherwise stated herein, any fees set forth in this Ordinance shall be paid at the time of filing an application with the Authorized Official. Such fee shall be payable to the Town of Wakonda and under no conditions shall any fee be refunded after publication of any required legal notice or, if notice is not required, after the Town has properly considered the application. No action shall be taken upon any application unless all fees have been paid.

16.02 Schedule of Fees, Charges, and Expenses. A schedule of fees, charges, and expenses for permits, change of zones, appeals, and other matters pertaining to this Ordinance shall be established by resolution of the Town Board. The current fee schedule shall be available from the Finance Officer.

CHAPTER 17. DEFINITIONS

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

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

17.02 Definitions.

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

ACCESSORY BUILDING - A customary and incidental building or portion thereof, used in connection with a principal building or use of the lot.

ACCESSORY STRUCTURE – A customary and incidental structure or portion thereof, used in connected with a principal building or use of the lot.

ACCESSORY USE – A use of a lot that is customary and incidental to the lot’s principal building or use.

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

- (1) Books, magazines, periodicals, or other printed matter, photographs, films, motion

pictures, videocassettes, or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.

- (2) Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.

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

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

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

ASSISTED LIVING FACILITY - A licensed health care facility that provides 24-hour supervision of the elderly, including rooms, meals, personal care, and supervision of self-administrated medication. They may also provide services, such as recreational activities, financial services, and transportation.

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

AWNING/CANOPY - A roof-like cover, retractable or permanent, that projects from the wall of a building.

BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground and which is permanently affixed to the land.

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

BUILDING, HEIGHT - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten (10) feet of the structure.

BUILDING LINE - A line parallel to the curb line touching that part of a building or parking lot closest to the street.

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

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

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

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

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

CLINIC - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, optometrists, social workers, etc., and where patients are not usually lodged overnight.

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

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

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

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

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

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

CONSUMER STORAGE BUILDING – Commercial warehouse facility designed and intended solely for the storage of personal and household items.

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

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

CONVENT/MONASTERY - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in adjacent institutions.

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

COVENANT OR RESTRICTIVE COVENANT - A legal restriction on use of property or a contract between the seller and the buyer of the land affecting use of the land.

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

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

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

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

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

DISTRICT - A part, zone, or geographic area of the Town of Wakonda within which certain zoning or development regulations apply.

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family and multiple-family dwellings, but not including hotels, inns, motels, and manufactured homes. This definition includes prefabricated homes constructed under the *International Residential Code (IRC)*. Each dwelling shall include cooking, sleeping, and sanitary facilities.

DWELLING, MULTIPLE-FAMILY - A building, or portion thereof, located on a single lot which contains two or more dwelling units.

DWELLING, SINGLE-FAMILY ATTACHED - A one family dwelling attached to at least one other one family dwelling by a common vertical party wall, with each dwelling located on a separate lot.

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

DWELLING UNIT - One (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

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

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

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

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

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

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

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

GARAGE, PRIVATE - A building or a portion of a building in which motor vehicles owned or leased by the occupants of the principal buildings are stored or kept.

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

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

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

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

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

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

HARDSHIP - A hardship exists if the property owner was forced to comply with the provisions of an ordinance, and he or she would be unable to make “reasonable” use of the property. The hardship must result from the unique physical characteristics of the property, rather than a personal problem or the financial needs of the owner.

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

HOME OCCUPATION – Any occupation owned and operated by a member of the immediate family residing on the premises.

HOSPITAL - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

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

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

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

KENNEL - Any building, lot, or portion thereof, 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/LIVING GROUND COVER - An area that is permanently devoted and maintained in blue grass/creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

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

LOADING SPACE - A space within the main building or on the same lot for the standing, loading, or unloading of trucks.

LOADING SPACE, OFF-STREET - Off-street loading space means a space logically and conveniently located for bulk pickups and deliveries and accessible to such vehicles when required off-street parking spaces are filled.

LOT - A parcel or tract of land having specific boundaries and which has been recorded in the Clay County Register of Deeds Office.

LOT AREA - The lot area is the area of a horizontal plane bounded by the front, side, and rear lot lines.

LOT, CORNER - A lot abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than one hundred-thirty five (135) degrees.

LOT, DOUBLE FRONTAGE - A lot which abuts a street on two opposite sides (not a corner lot).

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

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

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

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

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three (3) feet to any lot line.

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

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

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

MANUFACTURED HOME - A residential building which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. This definition does not include prefabricated homes constructed under the *International Residential Code* (IRC).

For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

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

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

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

MOTOR VEHICLE, COMMERCIAL - Any vehicle which has more than sixteen (16) square feet of signage or which is adapted, designed, equipped, and used to perform a specific commercial function and which does not meet the definition of Motor Vehicle, Personal/Passenger as defined herein.

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential

parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

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

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

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

MOTOR VEHICLE SERVICE STATION - Any building, or portion thereof, which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

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

NON-CONFORMING USE - A land use that lawfully existed prior to the adoption, revision, or amendment to this Ordinance, but that fails, by reason of such adoption, revision, or amendment, to conform to the authorized use classifications, setback requirements, minimum building height standards, and other use restrictions of the zoning district in which it is located.

NON-STANDARD LOT – A lot that existed prior to the effective date of this Ordinance that fails to comply with the minimum lot width and area requirements of the zoning district in which it is located.

NURSING HOME - An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

OFFICE - A building, or portion thereof, designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations.

OUTDOOR STORAGE - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of junkyard as defined herein.

OWNER - The recorded owners of real property in fee simple including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having fee simple legal title to the land.

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

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

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

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

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

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

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

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

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

PROPERTY LINE - See (Lot Line).

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

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

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

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

RECYCLING COLLECTION FACILITY - An established facility where recyclable materials are collected for shipment off-site, with no processing such as grinding or crushing of the materials. Fully enclosed automated self-service aluminum collection machines not more than seven hundred-fifty (750) square feet are considered recycling collection facilities regardless of whether they contain a crusher or grinder. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RECYCLING PROCESSING FACILITY - An established facility where recyclable materials are collected and/or processed for shipment off site, including processing operations such as grinding or crushing of the materials. No on-site sales of materials nor salvage-type automobiles may be processed at these types of facilities. Facilities which handle recyclable hazardous materials or waste petroleum products as a primary or substantial portion of their business are not included.

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

RESIDENCE - A permanent dwelling place.

RETAIL SERVICE OR TRADE BUSINESS – Commercial establishment engaged in selling products, goods, or merchandise to the general public for personal or household consumption and establishments engaged in providing services or entertainment to the general public including, but

not limited to, restaurants, arcades, repair shops, gyms, health spas, grocery stores, and sporting goods stores.

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

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

SCHOOL - Any building or portion thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

SETBACK/SETBACK LINE - The line that is the required minimum distance from any lot line that establishes the area within which the principal use must be erected or placed.

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

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

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

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

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

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

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

SOLID WASTE TRANSFER FACILITY - A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

STORY - The portion of a building between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included

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

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

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

STREET, COLLECTOR - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.

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

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

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

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

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

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

TRAVEL TRAILER - Means any of the following:

1. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, permanently

identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight feet, and a body length not exceeding thirty feet.

2. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
3. **Motor-Home.** A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as any integral part of a self-propelled vehicle.
4. **Camping Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

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

VARIANCE - The authorization, following a hearing, for a lot owner to depart from certain requirements of a zoning ordinance within the limits as authorized by this Ordinance.

WAREHOUSE - A building used primarily for the storage of goods and materials.

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

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

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

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

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

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

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

YARD LINE - See (Building Line).

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

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

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

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

ZONE - A specifically defined area or district of the Town of Wakonda within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

ZONING MAP - Any map adopted as an ordinance by the municipality that defines the extent of each district or zone established in the zoning ordinance.