

**SULLY  
COUNTY  
  
ZONING  
ORDINANCE**

**2003**

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**Amended 2006, 2009, 2014,  
2015, 2020, 2021, & 2022**

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*Sections 1-101 to 1-116, inclusive. Definitions and general provisions.*

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

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

**Section 1-102. Definitions.**

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

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

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

“**Agriculture**” means the act or science of cultivating the ground, including the maintenance and harvesting of crops and the breeding, raising, and management of livestock and poultry.

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

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

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

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

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

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

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

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

## TABLE A

### EQUIVALENT NUMBER OF A SPECIES TO EQUAL:

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

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

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

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

“**Applicant**” is an individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

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

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

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

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

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

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

**“Board or Board of Adjustment”** is the Board of Adjustment of the County of Sully, South Dakota.

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

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

- a. Private garages, car ports, sheds, and agricultural buildings.
- b. Tanks and towers.

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

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

**“Cannabis (or Marijuana)”** means all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

**“Cannabis Cultivation Facility”** is further defined, in addition to the definition in SDCL 34-20G-1, as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**“Cannabis Dispensary”** is further defined, in addition to the definition in SDCL 34-20G-1, as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

**“Cannabis Establishment”** means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**“Cannabis Products”** means concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

**“Cannabis Product Manufacturing Facility”** is further defined, in addition to the definition in SDCL 34-20G-1, as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

“**Cannabis Testing Facility**” is further defined, in addition to the definition in SDCL 34-20G-1, as a legally licensed entity authorized to analyze the safety and potency of cannabis.

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

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

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

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

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

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

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

“**County Commission**” is the Sully County Commission.

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

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

**“Density of Confinement”** shall mean the owner or operator of a housed lot feeding operation shall have in their control a minimum of .2 of one acre per animal unit. (i.e. 8,000 head of finisher swine per 640 acres.)

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

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

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

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

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

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

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

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

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

**“Established Residence”** is any residence established by a personal presence in a fixed and permanent dwelling having occupied such dwelling for at least 180 days with the intention to remain there.

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

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

“**Farmer**” means one whose occupation is farming.

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

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

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

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

“**Feedlot Operator**” means an individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

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

“**Flammable Liquids**” shall mean any liquid having a flash point below 200<sup>0</sup> F and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100<sup>0</sup> F. Flammable liquids shall be divided into three classes as follows:

- Class 1.        Shall include those having flash points below 20<sup>0</sup> F.
- Class 2.        Shall include those having flash points above 20<sup>0</sup> F,  
                     but at or below 70<sup>0</sup> F.
- Class 3.        Shall include those having flash points above 70<sup>0</sup> F.

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

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

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

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

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

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

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

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

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

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

- a. There shall be no external evidence of the occupation with the exception of one unlighted nameplate of not more than one square foot in area attached flat against the building. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- b. There shall be no emission of smoke, dust, odor, fumes, glare, noise, vibration, electrical or electronic disturbance detectable at the zoning lot line.
- c. The activity shall employ only members of the immediate family of the resident of the dwelling.
- d. There shall not be a stock of goods on the premises in excess of 30 cubic feet in volume, none of which shall be of a flammable nature.
- e. There shall be no signs, radio, television, newspaper, handbill, or similar types of advertising linking the address of the premises with the home occupation.
- f. Said home occupation shall not involve continual visits by the general public.
- g. The above listed characteristics of the at home occupation shall not be construed to restrict the sale of garden produce grown on the premises, provided this exception shall not extend to allow the operation of a commercial green house or nursery, or the existence of stands or booths for the display of produce grown on the premises.

- h. Said occupation may include the caring for not more than 12 children at one time for hire.
- i. Room or board of hire, but not for more than 2 persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**Manufactured Home**” is a structure built on a chassis, off site, to be used as a dwelling with or without a permanent foundation.

“**Mobile Home**” is a mobile dwelling.

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

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

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

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

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

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

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

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

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

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

**“Planned Unit Development”** is a method to permit diversification in development of land in the county without in any way jeopardizing or reducing zoning standards which promote the public safety, convenience, health, general welfare, as well as preserve personal and property rights.

**“Planning Commission”** is the Sully County Planning and Zoning Commission.

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

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

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

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

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

**“Shooting Preserve”** is an acreage either privately owned or leased on which hatchery-raised game is released for the purpose of hunting for a fee over an extended season.

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

**“Shelterbelt”** is one or more rows of trees greater than one hundred (100) feet in length.

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

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

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

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

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

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

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

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

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

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

“**Wildlife Mitigation Areas**” are areas of take land along the Missouri River not designated for park and recreation use.

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

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

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

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

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

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

**Section 1-103. Adoption of official zoning map and descriptions - custody of and maintenance by Zoning Administrator.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 1-111. Administration and enforcement of ordinance - building permits - powers and duties of Zoning Administrator and Board of Adjustment.**

*A. Administration and Enforcement*

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

***B. Building Permits***

1. There shall be no building or structure erected, added to, or structurally altered unless there has been a permit issued by the Zoning Administrator. Except upon a written request from the Board of Adjustment, no such building permit or certificate of occupancy shall be issued for any building where said construction, addition, or alteration or use thereof will not conform to the regulations of this ordinance.
2. With all applications for building permits there shall be submitted one copy of a layout or plot plan, drawn to scale, showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and any other information necessary to determine and provide for the enforcement of this ordinance. A careful record of these applications and plat plans shall be kept in the office of the Zoning Administrator.

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

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

***E. Board of Adjustment***

**A. Creation, Organization and Notice**

1. Planning Commission

The Planning Commission as appointed by the Board of County Commissioners shall consist of five (5) members to be known as the Sully County Planning and Zoning Commission. At least one (1) of the members of the Planning Commission shall be a member of the Board of County Commissioners. The term of each appointed member of the Planning Commission shall be for five (5) years. A first alternate and a second alternate may also be appointed to serve in the event that up to two (2) Sully County Planning and Zoning Commissioners are unable to attend or otherwise participate in a meeting. The first alternate, and/or the second alternate, in turn, shall serve in place of the absent member(s). The term of each Planning Commission alternate shall be for three (3) years.

2. Board of Adjustment

The Board of Adjustment is hereby established. The Board shall consist of all the members of the Sully County Planning and Zoning Commission. The alternate(s) appointed to the Planning Commission shall act as (an) alternate Board of Adjustment member(s) in the event that up to two (2) Board members are unable to attend or otherwise participate in a meeting. The first alternate, and/or the second alternate, in turn, shall serve in place of the absent member(s). When serving as the Board of Adjustment, the Planning and Zoning Commission shall reconvene and shall adopt rules and regulations for the handling of appeals business.

### 3. Notice

Owners of property within 200 feet and others having a material interest in any matter before the Board of Adjustment shall be given adequate notice so that they may be heard before a decision is made.

## B. Powers and Duties

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

### 1. Interpretation

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

### 2. Special Permits

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

### 3. Conditional Use Permits

### 4. Variances

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

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

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

C. Procedures

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

**Section 1-112. Inspections by Zoning Administrator.**

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

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

The County Commission may from time to time amend, change, modify, or repeal any portion of the Zoning Ordinance. Every proposed amendment or change shall be referred to the Sully County Planning Commission for a report thereon.

**Section 1-114. Penalty provisions.**

A violation of this Ordinance may be punishable by a \$200 fine. Should the violation continue, and no attempt is made to correct the violation, a complaint may be filed with the Sully County State's Attorney. Any person, firm, or corporation continuing to violate the provisions of this ordinance may be subject to a maximum penalty of a \$200 fine, thirty (30) days in jail, or both, up to the maximum penalty allowed by law. Each and every day that the violation continues may constitute a separate offense.

**Section 1-115. Severability.**

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

**Section 1-116. Jurisdiction and acquisition thereof.**

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

***Sections 1-117 to 1-199, inclusive, Reserved.***

*Sections 2-101 to 2-116, inclusive. Exceptions and encroachments.*

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 2-107. Allowable yard space encroachments for eaves, cornices, and architectural features.**

Eaves, cornices, and projecting architectural features may extend two (2) feet into a required yard space except that eaves may encroach three (3) feet into a yard space when such yard space is seven (7) feet or more in width.

**Section 2-108. Allowable yard space encroachments for fire escapes.**

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

**Section 2-109. Allowable yard space encroachments for chimneys.**

Chimneys when not more than four (4) feet wide may extend two (2) feet into any required yard space.

**Section 2-110. Allowable yard space encroachments for porches and terraces - other requirements.**

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

**Section 2-111. Allowable yard space encroachments for accessory buildings or structures.**

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

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

**Section 2-112. Certain automobile storage garages excepted from yard space requirements with permission of Board of Adjustment.**

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

or pedestrian traffic in the street, and that such orientation will be in harmony with the character of development of the neighborhood.

**Section 2-113. Certain one-family dwelling allowed on lots smaller than yard space requirements with permission of Board of Adjustment.**

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

**Section 2-114. Requirements for walls, hedges, and fences to provide unobstructed view at intersections - exceptions.**

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

**Section 2-115. Power of Board of Adjustment to grant interim special use permits for certain uses.**

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

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

1. The proposed use shall be an open land type of use and shall not involve the erection of permanent buildings or other permanent improvements and shall be located in an undeveloped area, provided however, that permanent buildings shall be allowed which conform with the zoning in force upon the parcel.
2. The proposed use and the placement thereof upon the land shall be such that it shall not be unsightly to the general public or interfere with the enjoyment or use of neighboring properties.
3. All permanent structures shall comply with all provisions of the district in which the proposed use is located.
4. The Board of Adjustment may append reasonable conditions to any special use permit to the end that the objectives of this ordinance may be upheld.

**Section 2-116. Procedures, conditions, and restrictions on interim special use permits.**

Before issuing any special use permit, the Board shall hold a public hearing and shall give notice hereof to all property owners within 2,640 feet and to the County Commission. Before approving any special use permit, the Board shall request and receive the favorable recommendation of the County Commission. The Zoning Administrator shall enforce compliance with the terms of the special use permit and shall initiate actions for renewal or cessation of the activity at the expiration of the special use permit.

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

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

*Sections 2-117 to 2-118, inclusive. SWECS & LWECS.*

**Section 2-117. Small Wind Energy Conversion Systems (SWECS).**

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

**B. Federal and State Requirements.** All WECS facilities shall meet or exceed standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, USF&WS, SDGF&P, SDDOT, SDPUC, SD Historic Preservation Office, South Dakota State Statutes, and any other agency of federal or state government with the authority to regulate WECS facilities.

**C. Technical Issues and Expert Review.** WECS and their attendant support facilities may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Planning Administrator may require the applicant to pay reasonable costs for a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal will be at the sole discretion of the County.

**D. Definitions.**

1. Board – The Planning and Zoning Commission and/or Board of Adjustment.
2. Construction – Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.
3. High Voltage Transmission Line – A conductor of electric energy and associated facilities.
4. Overhang Distance – The maximum horizontal extension of the WECS, including the rotor radius, measured from the centerline of the tower.
5. Meteorological tower (met tower) – The tower, base plate, anchors, guy cables, and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
6. Person – An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, consumers power district, or any other entity, public or private, however organized.

7. Route – The location of a High Voltage Transmission Line between two end points. The route may have a variable width of up to 1.25 miles.
8. Small Wind Energy Conversion System or SWECS – A WECS facility with a single tower height of less than seventy-five (75) feet used primarily for on-site consumption of power.
9. Tower Height – The height above grade of the fixed portion of the tower, excluding the wind turbine itself.
10. System Height – The height above grade of the tallest point of the WECS, including the rotor radius.
11. Turbine – The parts of the WECS including the blades, generator, and tail.
12. Utility – Any person engaged in the generation, transmission, or distribution of electric energy in this state including, but not limited to, a private investor-owned utility, a cooperatively owned utility, a consumer power district, and a public or municipal utility.
13. Wind Energy Conversion System or WECS – A commonly owned and/or managed integrated system that converts wind movement into electricity. All of the following are encompassed in this definition of system:
  - a. Tower or multiple towers, including foundations.
  - b. Generator(s).
  - c. Blades.
  - d. Power collection systems, including pad-mount transformers.
  - e. Access roads, meteorological towers, on-site electric substation, control building, and other ancillary equipment and facilities.
  - f. Electric interconnection systems or portion thereof dedicated to the WECS.

***E. Requirements for Siting Small Wind Energy Conversion Systems.***

1. Standards

A Small Wind Energy Conversion System may be permitted subject to the following requirements:

- a. *Setbacks.* Unless otherwise specified, all setback measurements are from the structural perimeter of a building, the edge of a right-of-way, or the structural perimeter of a tower pylon.
  - i. The minimum setback distance between each wind turbine tower and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, public roads, and dwellings shall be equal to no less than one point one (1.1) times the system height, unless written permission is granted by each affected person.

- ii. Contiguous property owners and planned developments may construct a SWECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval by the Director of Planning and Zoning.
- b. *Access.* All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access, and the tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.
- c. *Electromagnetic Interference.* The permittee shall not operate the SWECS so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the SWECS or its operation, the permittee shall take the measures necessary to correct the problem.
- d. *Lighting.* A SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- e. *Noise.* SWECS facilities shall not exceed fifty-five (55) dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages or windstorms.
- f. *Appearance, Color, Finish.* The SWECS shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
- g. *Signs.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a SWECS visible from any public road shall be prohibited.
- h. *Code Compliance.* A SWECS shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- i. *Utility Notification.* No SWECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- j. Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.

## 2. Permit Requirements

- a. *Building Permit.* A building permit shall be required for the installation of a SWECS.
- b. The owner shall submit an application for a building permit on a form approved by the Planning and Zoning Administrator. The application shall be accompanied by two (2) copies of a plot plan which includes the following:

- i. Property lines and physical dimensions of the property.
  - ii. Location, dimensions, and types of existing major structures on the property.
  - iii. Location of the proposed SWECS.
  - iv. The right-of-way of any public road that is contiguous with the property.
  - v. Any overhead utility lines.
  - vi. Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed).
  - vii. Tower foundation blueprints or drawings.
  - viii. Tower blueprint or drawing.
  - ix. Proof of notification to the utility in the service territory in which the SWECS is to be erected, consistent with the provisions of E.1.(i) herein.
  - x. The status of all necessary interconnection agreements or studies.
- c. Copies of all required third party inspections/engineering inspections shall be provided to the Director of Planning and Zoning as completed.
- d. *Expiration.* A permit issued pursuant to this ordinance shall expire if:
- i. The SWECS is not installed and functioning within twenty-four (24) months from the date the permit is issued.
  - ii. The SWECS is out of service or otherwise unused for a continuous 12-month period.

### 3. Maintenance

- a. All WECS components, support structures, and facilities shall be maintained in good condition, order, and repair so that they do not endanger the life or property of any person.
- b. Upon the determination of the Planning Director that a structure is a hazard to public safety, the owner shall be required to perform an inspection by a registered professional engineer and make all recommended corrections.
- c. If an owner discontinues use of a WECS, the owner shall give written notice to the Planning Director of the date of such discontinuance.

### 4. Abandonment

- a. A SWECS that is out-of-service for a continuous three-hundred-sixty-five (365) day period will be deemed to have been abandoned. The Planning Director may issue a Notice of

Abandonment to the owner of a SWECS that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Planning Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWECS has not been abandoned.

- b. If the SWECS is determined to be abandoned, the owner of the SWECS shall remove the wind generator from the tower at the owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Planning Director may pursue legal action to have the wind generator removed at the owner's expense.

## 5. Violations

It is unlawful for any person to construct, install, or operate a SWECS that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. SWECS facilities installed prior to the adoption of this ordinance are exempt.

## **Section 2-118. Large Wind Energy Conversion Systems (LWECS).**

- A. Purpose.** The purpose of this section is to ensure that the placement, construction, and modification of a Large Wind Energy Conversion System (LWECS) facility is consistent with Sully County's land use policies, minimizes the impact of the LWECS facility, establishes a fair and efficient process for review and approval of applications, assures a comprehensive review of environmental impacts of such facilities, and protects the health, safety, and welfare of the county's citizens.
- B. Applicability.** The requirements of this section shall apply to all Wind Energy Conversion Systems (WECS) facilities excluding private facilities with a single tower height of less than seventy-five (75) feet used primarily for on-site consumption of power.
- C. Federal, State, and Local Requirements.** All LWECS facilities shall meet or exceed the standards and regulations of any and all federal, state, and local government agencies with authority to regulate LWECS facilities.
- D. Technical Issues and Expert Review.** LWECS and their attendant support facilities may involve complex technical issues that require review and input that is beyond the expertise of county staff. The Board of Adjustment may require the permittee to pay, at permittee's sole expense, reasonable costs for a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal will be at the sole discretion of the Board.

### **E. Definitions.**

1. Board – The Board of Adjustment of Sully County, South Dakota.
2. Construction – Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.
3. High Voltage Transmission Line – A conductor of electric energy and associated facilities.
4. Ice Throw – Accumulated ice buildup on the blades of a wind turbine that is, or may be, thrown during normal spinning or rotation.
5. Large Wind Energy Conversion System or LWECS – All WECS facilities excluding those defined as Small Wind Energy Conversion Systems (SWECS).
6. Meteorological Tower or Met Tower – The tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
7. Occupied Residence – Any residence established by a personal presence in a fixed and permanent dwelling having occupied such dwelling for at least fifty percent (50%) of the two (2) years directly preceding the date an application for a LWECS facility is submitted.

8. Overhang Distance – The maximum horizontal extension of the LWECS, including the rotor radius, measured from the centerline of the tower.
9. Participating – Any person who receives direct or indirect compensation for allowing a WECS to utilize, or have an access or easement to utilize, their property.
10. Person – An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, consumer power district, or any other entity, public or private, however organized.
11. System Height – The height above grade of the tallest point of the WECS, including the rotor radius.
12. Tower Height – The height above grade of the fixed portion of the tower, excluding the wind turbine itself.
13. Turbine – The parts of the WECS including the blades, generator, and tail.
14. Utility – Any entity engaged in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor-owned utility, a cooperatively-owned utility, a consumer power district, and a public or municipal utility.
15. Wind Energy Conversion System or WECS – A commonly owned and/or managed, integrated system that converts wind movement into electricity. All of the following are encompassed within this definition:
  - a. Tower or multiple towers, including foundations.
  - b. Generator(s).
  - c. Blades.
  - d. Power collection systems, including pad-mount transformers.
  - e. Access roads, meteorological towers, on-site electric substation, control building, and other ancillary equipment and facilities.
  - f. Electric interconnection systems or portion thereof dedicated to the WECS.

## ***F. General Provisions.***

1. Mitigation Measures
  - a. *Site Clearance.* The permittee shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation, and maintenance of the LWECS.
  - b. *Topsoil Protection.* The permittee shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected property owner.

- c. *Compaction.* The permittee shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small of an area as practicable.
- d. *Livestock Protection.* The permittee shall take all necessary precautions to protect livestock in the LWECS project area during all phases of the project's life.
- e. *Fences.* The permittee shall promptly replace or repair all fences and gates removed or damaged by project operations during all phases of the project's life unless otherwise negotiated with the affected fence owner.
- f. *Soil Erosion and Sediment Control Plan.* The permittee shall develop a Soil Erosion and Sediment Control Plan to be submitted in conjunction with the Conditional Use Permit Application. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase and shall, at a minimum, identify plans for: grading, construction, and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability, and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, identifying methods for the disposal or storage of excavated material, protecting exposed soil, stabilizing restored material, and removal of silt fences or barriers when the area is stabilized.

## 2. Roads

- a. *Public roads.* Prior to final submission of a Conditional Use Permit Application, the permittee shall identify all public haul roads that may be used for the LWECS project and shall notify the governing bodies having jurisdiction over such roads. The governing bodies shall be given adequate time to inspect the proposed haul roads. As part of any such inspection of county roads, the county may require the permittee to hire a third-party engineer, approved by the county and at the permittee's sole expense, to inspect the haul roads, document the current condition of the haul roads, and prepare a written report for the county regarding the adequacy of the haul roads for the activities associated with the LWECS. The permittee shall meet with the Sully County Highway Superintendent to discuss traffic, signs, repair, and maintenance responsibilities on county roads to be used as haul routes. Where practicable, existing roadways shall be used for all activities associated with the LWECS, and all-weather roads shall be used to deliver concrete, turbines, towers, assemble nacelles, and all other heavy components. The permittee shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate governing bodies having jurisdiction over approved haul roads for the maintenance and repair of the roads. An approved, written Haul Road Agreement shall be submitted in conjunction with the Conditional Use Permit Application.
- b. *Turbine Access Roads.* Construction of turbine access roads shall be minimized. Access roads shall be low profile to accommodate farm equipment crossings and shall be covered with Class 5 gravel or similar material. If access roads must be constructed across streams and drainage ways, the roads shall be designed in a manner so that runoff from the upper portions of the watershed can readily flow to the lower portions of the watershed.

- c. *Private Roads.* The permittee shall promptly repair private roads or lanes damaged while moving equipment or obtaining access to the site unless otherwise negotiated with the affected property owner.
- d. *Dust Control.* The permittee shall utilize all reasonable measures and practices of construction to control dust. A Dust Control Plan shall be submitted in conjunction with the Conditional Use Permit Application.

3. Setbacks

Wind turbines shall at least meet the minimum spacing requirements of the following table:

	<b>Setback Distance</b>
Participating occupied residence, business, church, or school	3,000' or 6x the height of the wind turbine, whichever is greater*
Non-Participating occupied residence, business, church, or school	21,120'*
Distance from the edge of the right-of-way of a public road	3,000' or 6x the height of the wind turbine, whichever is greater**
Municipal boundaries at the time of Conditional Use Permit application	21,120'
Distance from Non-Participating property line	21,120'****
Distance from Participating property line	3,000' or 6x the height of the wind turbine, whichever is greater***

- \* Setback distance to be measured from the wall line of the neighboring principal building to the base of the tower. The vertical height of the wind turbine is measured from the ground surface to the tip of the blade when in a fully vertical position.
- \*\* The horizontal setback shall be measured from the base of the tower to the nearest edge of the public right-of-way.
- \*\*\* The horizontal setback shall be measured from the base of the tower to the adjoining property line. For the purposes of this section only, the “property owner” shall be defined as an individual owner or entity.

4. Towers

The towers shall be of a neutral color and the finish of the exterior surface shall be non-reflective and non-glass. All towers shall be of singular tubular design.

5. Blade Height

The minimum height above the ground surface of blade tips measured when a blade is in a fully vertical position shall be twenty-five (25) feet above grade.

6. Turbine Spacing

The turbines shall be spaced no closer than three (3) rotor diameters (RD) within a straight line. If required during micro-siting of the turbines to account for topographic conditions, up to ten (10) percent of the towers may be sited closer than the above spacing, but the permittee shall minimize the need to site the turbines closer.

7. Footprint Minimization

The permittee shall design and construct the LWECS so as to minimize the amount of land that is impacted by the project. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers, and monitoring systems shall, to the greatest extent feasible, be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected property owner.

8. Collector Lines

When located on private property, the permittee shall place electric energy lines running from the Wind Energy Conversion System to the feeder lines, known as collectors, together with communication cables, underground between the WECS and the feeder lines. An exception to this requirement occurs when the total distance of collectors from the substation requires an overhead installation due to line loss of current from an underground installation. Collectors and cables shall also be placed within or immediately adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected property owner. This section does not apply to feeder lines.

9. Feeder Lines

The permittee shall place overhead electric lines that run from the collector lines to the main electric terminal, known as feeders, on public rights-of-way or private property. Changes in routes may be made as long as feeder lines remain on public rights-of-way and approval has been obtained from the governmental unit responsible for the affected right-of-way. If no public right-of-way exists, the permittee may place feeder lines on private property. When placing feeder lines on private property, the permittee shall place the feeder in accordance with the easement negotiated with the affected property owner. The permittee shall submit the site plan and engineered drawings for the feeder lines to the Board prior to commencing construction. Feeder line support structures (power poles) shall be placed on private property where concrete or other similar material is used as an exposed or above-ground permanent foundation.

10. Lighting

Towers shall be marked as required by the Federal Aviation Administration (FAA). During construction, any temporary or permanent structure, including all appurtenances, which exceed an overall height of two hundred (200) feet above ground level shall be lighted. The preferred manner of lighting is by means of an Aircraft Detection Lighting System (ADLS). Subject to

FAA approval, the permittee shall install the ADLS within twelve (12) months of the approval for the specified project. Lighting must be equipped by the start of commercial operation and for the life of the structure, subject to normal maintenance and forced outages. In the event the FAA does not approve an ADLS, the permittee shall comply with all lighting and marking requirements as otherwise mandated by the FAA. There shall be no lights on the towers other than that as required by the FAA. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment. Security lighting on the site shall not exceed twenty (20) feet in height and be directed toward the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower.

#### 11. Flicker Analysis

A flicker analysis shall include the duration and location of flicker potential for all schools, churches, businesses, and occupied dwellings within a one (1) mile radius of each turbine within a LWECS project. The permittee shall provide a site map identifying the locations of shadow flicker that may be caused by the project and expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall account for topography but not for obstacles such as accessory structures and trees. Flicker at any receptor shall not exceed thirty (30) minutes per day or fifteen (15) hours per year within the analysis area. Permittee shall install turbine control equipment on the project's turbines that allow for individual turbines to be shut down as necessary to ensure the shadow flicker does not exceed thirty (30) minutes per day or fifteen (15) hours per year.

- a. *Exception.* The Board of Adjustment may allow for a greater amount of flicker than identified above if the participating or non-participating property owners agree to said amount of flicker. If approved, such agreement shall be filed and recorded with the Sully County Register of Deeds. Said agreement shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land.

#### 12. Electromagnetic Interference

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

#### 13. Noise

Noise level generated by the LWECS shall not exceed 35 dBA average A-weighted sound pressure including constructive interference effects at the perimeter of the principal and accessory structures of existing participating and non-participating occupied residences, businesses, churches, or schools.

- a. *Exception.* The Board of Adjustment may allow for a greater noise level than identified above if the participating or non-participating property owners agree to said noise level. If approved, such agreement shall be filed and recorded with the Sully County Register of Deeds. Said agreement shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land.

#### 14. Ice Throw

The permittee shall utilize all measures to minimize ice throw. Permittee shall use two (2) methods to detect icing conditions on turbine blades: (1) sensors that detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site permanent meteorological towers, on-site anemometers, and other relevant meteorological sources that will be used to determine if ice accumulation is occurring. These control systems will either automatically shut down the turbine(s) in icing conditions (per the sensors), or permittee will manually shut down the turbine(s) if icing conditions are identified (using meteorological data). Turbines will not return to normal operation until the control systems no longer detect an imbalance or when weather conditions either remove icing on the blades or indicate icing is no longer a concern. Permittee shall bear financial responsibility for any documented damage caused by ice throw from a turbine.

#### 15. Maintenance

All LWECS components, support structures, and facilities shall be maintained in good condition, order, and repair to ensure that they do not endanger the life or property of any person. Upon the determination of the Board that a structure within the project area is a hazard to public safety, the owner shall be required to pay, at the owner's sole expense, for the services of a registered professional engineer as approved by the Board to perform an inspection and make all recommended corrections. If an owner discontinues use of a LWECS, the owner or operator shall give immediate written notice to the Board of the date of such discontinuance.

### ***G. Decommissioning, Abandonment, and Restoration.***

#### 1. Decommissioning Plan

In conjunction with the Conditional Use Permit Application, the permittee shall submit a detailed decommissioning plan describing the manner in which the permittee anticipates decommissioning the LWECS project in accordance with the requirements that follow.

#### 2. Cost Responsibility

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

#### 3. Abandoned Turbines

The owner or operator of a LWECS facility shall submit a written report to the Board of Adjustment detailing any turbines that have been abandoned prior to termination of operation of the LWECS. A turbine is presumed to be at the end of its useful life if the individual turbine generates no electricity for a continuous period of one hundred and eighty (180) days, at which point the Board may require the owner or operator to decommission any abandoned turbine. Owner or operator shall submit on an annual basis, on December 1, a report of activity including disclosure of the number of calendar days of energy generating operation for each turbine located

within the permitted project. Annual reports shall be submitted to the Board and kept on file in the office of the Planning and Zoning Administrator for a period of three (3) years.

4. Abandoned LWECS

A LWECS is presumed to be at the end of its useful life if the facility generates no electricity for a continuous period of one hundred and eighty (180) days, at which point the Board of Adjustment may require the owner or operator to decommission the entirety of the LWECS. The presumption may be rebutted by submitting for approval to the Board a plan outlining the steps and schedule for returning the LWECS to service within twelve (12) months of the submission.

5. Decommissioning Period

The decommissioning of the turbine or LWECS facility shall begin within eight (8) months of abandonment or expiration of the Conditional Use Permit and must be completed within eighteen (18) months of the abandonment or expiration of the permit.

6. Site Restoration

The owner or operator of the LWECS facility shall be obligated to dismantle and remove from the project site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings, and ancillary equipment to a depth of six (6) feet. To the extent possible, the owner or operator shall restore and reclaim the project site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected property owner requesting that one (1) or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth, no removal, or access road retention shall be filed and recorded with the Sully County Register of Deeds and shall show the locations of all such foundations and/or roads. Said agreement shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land. All such agreements between the owner and the affected property owner shall be submitted to the Board prior to completion of restoration activities.

7. Financial Assurance

The Board of Adjustment shall require a performance bond, surety bond, escrow account, letter of credit, corporate guarantee, or other form of financial assurance that is acceptable to the Board to cover the anticipated costs of decommissioning the LWECS facility. The Decommissioning Plan shall contain the following provisions relating to financial assurance:

- a. The financial assurance is funded by the LWECS facility owner, prior to construction, in the form of a required bond in the amount of the full and complete cost of the project plus additional funds added to the bond annually matching the amount of inflation based on the Consumer Price Index (CPI). The financial assurance is submitted for the purpose of decommissioning the LWECS. This requirement may not be necessary if the owner is required by another entity to maintain financial assurance equal to or exceeding the amount required in this section.
  - i. All interest earned by the account remains in the account.

- ii. An account statement shall be provided annually to the Sully County Board of Commissioners
  - iii. The account shall follow ownership of the LWECS.
  - iv. The account is not subject to foreclosure, lien, judgment, or bankruptcy.
- b. Beginning in year ten (10) following the start of operation, and each fifth year thereafter, the LWECS owner or operator shall submit to the Board of Adjustment an estimated decommissioning date, if established, and estimated decommissioning costs and salvage values. Based on the verification of the information in this filing, the Board may change the annual escrow funding rate to more closely match the estimated amount needed for decommissioning.

8. Failure to Decommission

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

**H. *Permitting Requirements.***

1. Any Wind Energy Conversion System that is not defined as a Small Wind Energy Conversion System shall require a Conditional Use Permit, which shall become void if no substantial construction has been completed within twelve (12) months of issuance or the permitted use ceases for a period of twelve (12) months, and, at a minimum, shall include the following additional information:
  - a. If not the named permittee, the name, address, phone number, and email address of the contact person for the LWECS project. The contact person must be currently employed by the project and must be kept up to date. If the original named contact person is no longer employed by the project, the information for the new contact person must be supplied to the Board within ten (10) business days.
  - b. Boundaries of the site proposed for the LWECS facility and associated facilities shown on a United States Geological Survey map or other map as appropriate.
  - c. Map of the easements for the LWECS project.
  - d. Copies of the easement agreements with the property owners.
  - e. A map of the occupied residential structures, businesses, cemeteries, and public buildings within four (4) miles of the proposed LWECS project site boundaries.

- f. A preliminary map of tower sites within the LWECS project area, access roads, and utility lines, along with the location of any other LWECS facility located within five (5) miles of the proposed LWECS site.
  - g. Evidence of consultation on project-specific environmental and cultural concerns. This information shall be obtained by consulting with, at minimum, the following agencies:
    - i. Federal Communications Commission
    - ii. Federal Aviation Administration
    - iii. United States Fish and Wildlife Service
    - iv. South Dakota Department of Game, Fish and Parks
    - v. South Dakota Public Utilities Commission
    - vi. South Dakota State Historical Society
  - h. Environmental Impact Study.
  - i. LWECS project schedule.
  - j. A copy of the approved Haul Road Agreement and a haul road map.
  - k. The Soil Erosion and Sediment Control Plan and the Dust Control Plan.
  - l. The Decommissioning Plan.
  - m. The status of any interconnection studies/agreements.
  - n. Any other information that the Board of Adjustment may deem necessary for consideration in enforcing the provisions of this section.
2. A Building Permit shall be required for the buildings and structures to be erected, added to, or altered within the LWECS project area before construction begins, and shall automatically expire if the permitted work has not been started within twelve (12) months of the approval date. In addition to the requirements outlined in the Zoning Ordinance of Sully County, the Building Permit Application, at a minimum, shall include the following additional information:
- a. System specifications, including manufacturer and model, rotor diameter, tower height, and tower type.
  - b. Tower blueprints or drawings.
  - c. Tower foundation blueprints or drawings.

- d. Proof of notification to the utility in the service territory in which the LWECS facility is to be erected.
  - e. Proof of the agreements with property owners for reduced setbacks, increased flicker, or increased noise.
  - f. Any other information that the Planning and Zoning Administrator may deem necessary for consideration in enforcing the provisions of the Ordinance.
3. At least forty-five (45) days prior to commencement of construction, the permittee shall submit final maps depicting the approximate location of the proposed wind turbines, access roads, and collector and feeder lines. Upon completion, the permittee shall also supply an “as-built” ALTA survey showing that all facilities comply with the setback requirements.

***Sections 2-119 to 2-199, inclusive, Reserved.***

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

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

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

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

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

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

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

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

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

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

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

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

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

USE	PARKING REQUIRED	LOADING SPACES REQUIRED
Multiple family dwellings	1.5 parking spaces per dwelling unit; if constructed with a garage, two spaces are required, with the garage permitted as one space	None
Two family and multiple family dwelling units containing one bedroom or efficiency units	One parking space for each unit; if constructed with a garage, it may be considered as one parking space	None
Multiple family dwelling units to be used exclusively for the housing of the elderly, being one or more persons over 60 years of age per dwelling unit	0.8 parking spaces per unit	None
Single family dwelling	Two for each	None
Boarding, rooming, and lodging houses	One for each bedroom	None
Doctor's offices, medical and dental clinics	Four spaces for each medical or dental practitioner	None
Restaurants, beer parlors, taverns, bars, night clubs	One for each five seats	None
Retail stores and shops	One for each 300 square feet of floor space, to 10,000 sq. ft.; one for each 500 sq. ft. of gross floor space over 10,000 sq. ft.	One
Furniture and appliance sales, and furniture and appliance repair	One for each 500 sq. ft. of gross sales space and repair space	One
Funeral homes and mortuaries	One for each five seats in chapel	One
Beauty and barber shops	Two for each operator	None

Automotive or machinery sales and service garages	One for each 500 sq. ft. of floor area	One
Bowling alleys	Seven for each alley	None, unless beer parlor or restaurant is attached, then one
Roller and ice rinks, intensive sports and recreation establishments, and dance halls	One for each 75 sq. ft. of gross floor area of public space as appropriate	None
Banks and professional offices, and general offices	One for each 400 sq. ft. of floor area	One for buildings over 10,000 sq. ft.

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

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

USE	PARKING REQUIRED	LOADING SPACES REQUIRED
Hotels and motels with restaurant and/or bar	One space for each unit, and one space for each ten seats in restaurant and/or bar	One
Hotels, motels, and clubs with guest rooms	One space for each unit	One
Hospitals and rest homes	One space for each three beds	One space for the first 40,000 sq. ft. of floor area or fraction thereof plus one space for each additional 150,000 sq. ft. of floor area or major fraction thereof
College fraternities and sororities	One space for each two bedrooms; half of the requirements may be off-site	One
Clubs and organization halls	One space for each 200 sq. ft. of assembly space on-site	One
Office buildings of 10,000 sq. ft. or over (if less than 10,000 sq. ft. see general office)	One space for each 500 sq. ft. of gross floor area on-site	One

Wholesale stores with stock of goods (without stock see general office)	One space for each 500 sq. ft. of gross floor area; at least half of requirements shall be on-site	One
Warehouses	Four spaces for the first 5,000 sq. ft. of gross floor area, plus one additional space for each additional 5,000 sq. ft. or major fraction thereof; 25% of total requirement shall be on-site	One space for the first 5,000 sq. ft. of gross floor area plus one space for each additional 10,000 sq. ft. of gross floor area or major fraction thereof

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

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

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

*Sections 3-107 to 3-199, inclusive. Reserved.*

***Sections 4-101 to 4-107, inclusive. Agriculture District A.***

**Section 4-101. Legal boundary descriptions for Agriculture District A.**

All property in rural Sully County not otherwise zoned.

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

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

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

**Section 4-103. Principal permitted uses.**

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

1. Uses directly relating to agricultural production and processing practices, including processing of products grown on the premises, but exclusive of the following:
  - a. Commercial meatpacking, slaughtering, rendering, and related activities.
  - b. Confinement feeding operations with a capacity for more than 400 animal units.
  - c. Commercial feedlots with a capacity of more than 400 animal units and in operation 180 days or more per calendar year.
2. Farm feed lots.
3. Confinement feeding operations with a maximum capacity of 399 animal units.
4. Dwellings and mobile home dwellings for owners and employees, normal farm and ranch structures, and residential accessory uses.
5. Outdoor-type recreational enterprises, which utilize land resources in their natural state.
6. Veterinary clinics.
7. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipeline and their necessary appurtenances.
8. Sand and gravel pits.

#### **Section 4-104. Accessory uses.**

The following uses are permitted as accessory to the principal permitted uses in Agriculture District A:

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

#### **Section 4-105. Conditional uses.**

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

1. Confinement or commercial feeding operations with more than 400 animal units.
  - a. Application for a conditional use permit for a confinement feeding operation shall include the following requirements:
    - i. Notification of adjacent property owners by certified mail living within one mile of the confinement site in an established dwelling.
    - ii. Number of animal units; density of confinement, (housed lot) to be a maximum of 0.2 of one (1) acre per animal unit.
    - iii. The general permit from the South Dakota Department of Environment and Natural Resources is required for all livestock confinement facilities.
    - iv. Annual statement of compliance to conditions of the conditional use permits and the general permit issued by the Department of Environment and Natural Resources to the Sully County Commission.
    - v. Site plan of operations with a minimum of 300' setback from adjacent property lines or any on-site living quarters from any confinement structure or lagoon.
    - vi. Housed poultry confinement or commercial feedlot operations of 400 animal units or more shall comply with all requirements of the South Dakota Department of Environment and Natural Resources.
2. Quarters for transient labor.
3. Bituminous hot mix plants and concrete batch plants.

4. Cemeteries, crematories, and mausoleums.
5. Sanitary landfills.
6. Commercial crop processing plants.
7. Game Lodges, shooting preserves, and sporting clays.

**Section 4-106. Space limitations.**

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

***Required Lot Area***

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

***Yards Required***

1. Minimum front yard setback: Fifty (50) feet measured from the right-of-way line.
  - a. Minimum setback from Highway 83 & 1804 rights-of-way shall be fifty (50) feet.
2. Minimum rear yard setback: Fifty (50) feet measured from the property line.
3. Minimum side yard setback: Twenty-five (25) feet measured from the property line.
4. All uses established in this zoning district shall provide parking and loading space off the public right-of-way in sufficient quantity to accommodate the normal activities of such uses.
5. A land survey and recorded plat of property less than thirty-five (35) acres is required prior to issuing a building permit for any building under principal permitted uses and accessory uses. Metes and bounds will not be accepted.

**Section 4-107. Performance standards.**

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

1. Feedlots, confinement feeding operations, corrals, or winter quarters in which animals are kept at a density of over ten head per acre, or where feed bunkers or water are placed so that animals naturally tend to bunch up, or poultry houses, or kennels containing more than three dogs over six months or age, shall not be closer than three hundred (300) feet from any lot line adjoining properties which are used for residential, business, industrial, or recreational purposes. (This paragraph does not intend to discriminate against the above agricultural uses existing prior to the zoning for other purposes.)

2. Such feedlots and corrals shall maintain drainage so as to avoid excessive concentration of contaminated water, and such drainage shall be so arranged that contaminated water does not drain into watercourses in such manner that it reaches neighboring properties at a concentration noticeable to normal senses.
3. Adequate fly spray shall be applied to all corral areas during fly season and more often if necessary to control the fly population.
4. All dead animals shall be removed within a reasonable length of time.
5. All shelterbelts shall be one hundred and twenty (120) feet from the first row to the center of the section line or road; whether it is improved or unimproved.

*Sections 4-108 to 4-199, inclusive, Reserved.*

***Sections 4-201 to 4-209, inclusive. Agriculture District B.***

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

One mile corridor on each side of US Highway 83; one mile from the city limits of the municipalities of Onida and Agar with the exception of a 42.5 acre (more or less) tract of land described as the E½NE¼ lying east of the railroad right-of-way of Section 14, Township 114 North, Range 77 West of the 5<sup>th</sup> P.M., Sully County, South Dakota; Sections 1 thru 36 in Llewellyn Park 113-80; Sections – 1, 2, 3, 4, 5, 10, 11, 12, 13, 14, 15, 16, 17, 22, 23, 24 in Llewellyn Park 113-81; Sections – 3, 4, 5, 6, 30, 31 in Okobojo 114-79; Sections – 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 in Grandview 114-80; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36 in Grandview 114-81; Sections – 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34 in Pearl 115-79; Sections 1 thru 36 in Fairbank 115-80; Sections – 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34 in Troy 116-79; Sections – 25, 35, 36 in Troy 116-80.

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

Agriculture District B is designed to preserve agricultural lands from encroachment of incompatible uses in areas of established residential areas and US Highway Corridor 83 in Sully County.

**Section 4-203. Principal permitted uses.**

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

1. Agriculture including horticulture, the raising of field crops, and animal husbandry, poultry farms, and kennels under performance conditions.
2. Ranch and farm dwellings and normal farm and ranch buildings.
3. Riding academies, dude ranches, and other farm and ranch-type recreational enterprises.
4. Golf courses and country clubs, but not including automotive racetracks or driving tracks, golf driving ranges (except as included in the operation of a golf course or country club of at least nine holes), outdoor theaters, or similar commercial recreation enterprises.
5. Home occupations.
6. Signs not over twelve (12) square feet in area identifying the occupants or the activity engaged in on the premises but not including billboards.
7. Recreational facilities owned or operated by government or by charitable or religious organizations.
8. Churches, schools, colleges, and similar facilities.

9. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipelines and their appurtenances.
10. Cannabis dispensary.
11. Shooting preserves as defined in SDCL 41-10-1.

**Section 4-204. Accessory uses.**

The following uses are permitted as accessory to the principal permitted uses in Agriculture District B:

1. Facilities common to farm and ranch activities and private swimming pools.
2. Living quarters for persons regularly employed on premises, but not including labor camps or dwellings for transient labor.
3. Roadside stands for the sale of products grown on the premises.
4. Home occupations.
5. Accessory uses common to all residential districts.
6. Shelterbelts.

**Section 4-205. Conditional Uses.**

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

1. Automotive racetracks and driving tracks and facilities incident to the operation of them.
2. Drag Strips, being a straight strip, and facilities incident to the operation of them.
3. Golf driving ranges and facilities incident to the operation of them.
4. Outdoor theaters and facilities incident to the operation of them.
5. Game lodges, shooting preserves, and sporting clays and facilities incident to the operation of them.
6. Other similar commercial recreational enterprises approved by the Board of Adjustment.
7. Large Wind Energy Conversion System (LWECS) in conformance with Section 2-118.

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

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

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

#### **Section 4-207. Certain uses lying in airport noise zones declared incompatible and excluded.**

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

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

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

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

#### **Section 4-208. Space limitations.**

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

### ***Required Lot Area***

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

### ***Yards Required***

1. Minimum front yard setback:
  - a. Agricultural, commercial, or industrial property – Eighty-three (83) feet from the center of any road or section line right-of-way, whether improved or unimproved.
  - b. Residential developments – Sixty (60) feet from the center of the road, or from the property line if the road is a private road and included as part of a platted lot.
  - c. Minimum setback from Highway 83 and 1804 rights-of-ways shall be fifty (50) feet.
2. Minimum rear yard setback: Twenty-five (25) feet, measured from the property line.
3. Minimum side yard setback: Fifteen (15) feet measured from the property line.
4. A land survey and recorded plat of property thirty-five (35) acres or less is required prior to issuing a building permit for any building under principal permitted uses, accessory uses, and conditional uses. Metes and bounds will not be accepted.

Any lot platted prior to April 1, 2003, shall meet the setback requirements in force at that time.

### **Section 4-209. Performance standards.**

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

1. Feedlots, confinement feeding operations, corrals, or winter quarters in which animals are kept at a density of over ten head per acre, or where feed bunkers or water are placed so that animals naturally tend to bunch up, or poultry houses, or kennels containing more than three dogs over six months of age, shall not be closer than three hundred (300) feet from any lot line adjoining properties which are used for residential, commercial, manufacturing, or recreational purposes. (This paragraph does not intend to discriminate against the above agricultural uses existing prior to the zoning for other purposes.)
2. Such feedlots and corrals shall maintain drainage so as to avoid excessive concentration of contaminated water, and such drainage shall be so arranged that contaminated water does not drain into watercourses in such a manner that it reaches neighboring properties at a concentration noticeable to normal senses.
3. Manure in such feedlots or corrals shall not be allowed to accumulate to objectionable proportions.
4. Adequate insect spray shall be applied to all of the feeding area during fly season as often as necessary to control the fly population.

5. All dead animals shall be removed within a reasonable length of time.
6. Feed shall be limited to fresh materials and shall not include sour silage, sugar beet pulp, paunch manure, garbage, or other materials which may have a tendency to create objectionable odors.
7. Parking and loading spaces sufficient to meet all reasonable demands for such space shall be provided off the public right-of-way.
8. All shelterbelts shall be one hundred and twenty (120) feet from the first row to the center of the section line or road; whether it is improved or unimproved.

***Sections 4-210 to 4-299, inclusive. Reserved.***

*Sections 4-301 to 4-307, inclusive. Agriculture District C.*

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

Reserved.

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

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

**Section 4-303. Principal permitted uses.**

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

1. Agriculture including horticulture, the raising of field crops, and animal husbandry, poultry farms, and kennels under performance conditions. No confinement feeding operations (housed or open lot) shall be allowed.
2. Ranch and farm dwellings and normal farm and ranch buildings.
3. Single family dwellings.
4. Mobile home or manufactured home dwellings.
5. Riding academies, dude ranches, and other farm and ranch-type recreational enterprises.
6. Golf courses and country clubs, but not including automotive racetracks or driving tracks, golf driving ranges (except as included in the operation of a golf course or country club of at least nine holes), outdoor theaters, or similar commercial recreation enterprises.
7. Home occupations.
8. Signs not over twelve (12) square feet in area identifying the occupants or the activity engaged in on the premises but not including billboards.
9. Recreational facilities owned or operated by government or by charitable or religious organizations.
10. Churches, schools, colleges, and similar facilities.
11. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipelines and their appurtenances.

#### **Section 4-304. Accessory uses.**

The following uses are permitted as accessory to the principal permitted uses in Agriculture District C:

1. Facilities common to agricultural or residential uses.

#### **Section 4-305. Certain uses lying in airport noise zones declared incompatible and excluded.**

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

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

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

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

#### **Section 4-306. Space limitations.**

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

### ***Building Height Limit***

No building shall exceed two and one-half (2½) stories, or thirty-five (35) feet in height.

### ***Required Lot Area***

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

### ***Percentage of Lot Coverage***

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

### ***Yards Required***

1. Minimum front yard setback: Fifty (50) feet.
  - a. Minimum setback from Highway 83 and 1804 rights-of-way shall be fifty (50) feet.
2. Minimum rear yard setback: Fifty (50) feet.
3. Minimum side yard setback: Not less than fifteen (15) feet, but the sum of the two side yards shall not be less than thirty (30) feet.
4. A land survey and a recorded plat is required prior to issuing a building permit for any building under principal permitted uses and accessory uses.

### **Section 4-307. Performance standards.**

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

1. Corrals or winter quarters in which animals are kept at a density of over ten head per acre, or where feed bunkers or water are placed so that animals naturally tend to bunch up, or poultry houses, or kennels containing more than three dogs over six months of age, shall not be closer than three hundred (300) feet from any lot line adjoining properties which are used for residential, commercial, manufacturing, or recreational purposes.
2. Such corrals shall maintain drainage so as to avoid excessive concentration of contaminated water, and such drainage shall be so arranged that contaminated water does not drain into watercourses in such a manner that it reaches neighboring properties at a concentration noticeable to normal senses.
3. Manure in such corrals shall not be allowed to accumulate to objectionable proportions.
4. Adequate insect spray shall be applied to all of the feeding area during fly season as often as necessary to control the fly population.

5. All dead animals shall be removed within a reasonable length of time.
6. Feed shall be limited to fresh materials and shall not include sour silage, sugar beet pulp, paunch manure, garbage, or other materials which may have a tendency to create objectionable odors.
7. Parking and loading spaces sufficient to meet all reasonable demands for such space shall be provided off the public right-of-way.
8. All shelterbelts shall be fifty (50) feet from section line rights-of-way or twenty-five (25) feet from the exterior boundaries of the subdivision.

***Sections 4-308 to 4-399, inclusive. Reserved.***

*Sections 5-101 to 5-107, inclusive. Uses common to all residential districts.*

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

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

The uses set forth in Sections 5-102 to 5-105, inclusive, are permitted in all residential districts subject to further restrictions or liberalizations which are imposed by a specific district, or when excluded when located in Airport Noise Zone A.

**Section 5-102. Principal permitted uses.**

1. Off-street parking shall be provided for all uses established in the residential districts.
2. Only one building for living purposes shall be permitted on one zoning lot, except as otherwise provided herein.
3. Single family detached dwellings.
4. Public, parochial, and private schools and colleges offering courses of general instruction when located on sites of at least five (5) acres, and including convents, monasteries, dormitories, and other related living structures when located on the same site as the church.
5. Churches, synagogues, chapels, and similar places of religious worship and instruction of a quiet nature when located in a substantial structure.
6. Crop and tree farming but not including the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.
7. Parks and recreation areas operated by the city or other political subdivision.
8. Public and quasi-public buildings for cultural uses.
9. Country clubs as defined herein.

**Section 5-103. Accessory uses.**

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

1. Private garages and sheds.
2. Private swimming pools exclusively for the use of residents of the premises and their non-paying guests, and subject to any other regulations or ordinances.

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

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

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

**Section 5-104. Conditional uses.**

The following uses are conditionally permitted in residential districts:

1. Utility substations when located according to the yard space rules set forth for dwellings and having a landscaped or a masonry barrier on all sides, and after a showing before the Board that technical considerations necessary to the functioning of said utility requires the location of the facility in a residential district. Structures shall conform to all space limits of the district in which located and shall have an exterior design in harmony with nearby properties.
2. Railroad through and spur tracks, but no sidings or other terminal-type facilities and no service, repair, or administrative facilities, and after a showing before the Board that such facilities are necessary in the location proposed.

**Section 5-105. Certain uses lying in airport noise zones declared incompatible and excluded.**

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

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

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

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

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

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

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

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

*Sections 5-108 to 5-199, inclusive. Reserved.*

***Sections 5-201 to 5-207, inclusive. One Family Residential District 1-A.***

**Section 5-201. Legal boundary descriptions for One Family Residential District 1-A.**

Reserved.

**Section 5-202. Statement of purpose for One Family Residential District 1-A.**

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

**Section 5-203. Principal permitted uses.**

1. The principal permitted uses common to all residential districts.
2. Townhouses.

**Section 5-204. Accessory uses.**

1. The permitted accessory uses common to all residential districts.
2. Home occupations.

**Section 5-205. Conditional uses.**

1. The conditional uses common to all residential districts.

**Section 5-206. Certain uses lying in airport noise zones declared incompatible and excluded.**

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

**Section 5-207. Space limitations.**

***Building Height Limit***

No building shall exceed two and one-half (2½) stories, or thirty-five (35) feet in height.

***Required Lot Area***

Not less than ten thousand (10,000) square feet for permitted uses located in a subdivision with planned streets, community water supply, and community waste facilities. For religious or cultural uses, one (1) acre is required. For lots built upon before community water and waste systems are available, required lot area shall be the same as Agriculture District C.

### ***Percentage of Lot Coverage***

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

### ***Yards Required***

1. Minimum front yard setback: Twenty-five (25) feet.
  - a. Minimum setback from Highway 83 and 1804 rights-of-way shall be fifty (50) feet.
2. Minimum rear yard setback: Twenty-five (25) feet.
3. Minimum side yard setback: Not less than ten (10) feet, but the sum of the two side yards shall not be less than twenty (20) feet.

***Sections 5-208 to 5-299, inclusive. Reserved.***

***Sections 5-301 to 5-307, inclusive. One Family Residential District 2-C.***

**Section 5-301. Legal boundary descriptions for One Family Residential District 2-C.**

Reserved.

**Section 5-302. Statement of purpose for One Family Residential District 2-C.**

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

**Section 5-303. Principal permitted uses.**

1. The principal permitted uses common to all residential districts, including the placing of mobile and manufactured homes.

**Section 5-304. Accessory uses.**

1. The permitted accessory uses common to all residential districts.
2. Home occupations.

**Section 5-305. Conditional uses.**

1. The conditional uses common to all residential districts.
2. Fraternity and sorority houses when directly associated with a college or university.
3. Buildings of non-profit community organizations and social welfare establishments other than those providing living accommodations.
4. Commercial mobile or manufactured home parks in conformance with Sections 9-101 to 9-106, inclusive.

**Section 5-306. Certain uses lying in airport noise zones declared incompatible and excluded.**

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

**Section 5-307. Space limitations.**

***Building Height Limit***

No building shall exceed two and one-half (2½) stories, or thirty-five (35) feet in height.

### ***Required Lot Area***

Not less than ten thousand (10,000) square feet for permitted uses located in a subdivision which will have planned streets, community water supply, and community waste facilities. For religious or cultural uses, one (1) acre is required. For lots built upon before community water and waste systems are available, required lot area shall be the same as Agriculture District C.

### ***Percentage of Lot Coverage***

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

### ***Yards Required***

1. Minimum front yard setback: Twenty-five (25) feet.
  - a. Minimum setback from Highway 83 and 1804 rights-of-way shall be fifty (50) feet.
2. Minimum rear yard setback: Twenty-five (25) feet.
3. Minimum side yard setback: Not less than six (6) feet, but the sum of the two side yards shall not be less than fifteen (15) feet.

***Sections 5-308 to 5-399, inclusive. Reserved.***

***Sections 5-401 to 5-407, inclusive. Multiple Family Residential District.***

**Section 5-401. Legal boundary descriptions for Multiple Family Residential District.**

Reserved.

**Section 5-402. Statement of purpose for Multiple Family Residential District.**

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

**Section 5-403. Principal permitted uses.**

1. The principal permitted uses common to all residential districts.
2. Multiple dwellings.

**Section 5-404. Accessory uses.**

1. The permitted accessory uses common to all residential districts.

**Section 5-405. Conditional uses.**

1. The conditional uses common to all residential districts.
2. Office buildings for the conduct of the administrative business of a single company when such business does not deal with the public directly from the site of such office building.
3. The office of one or more professional persons engaged in the activities which generate a limited amount of contact with the general public, but including medical clinics, offices of lawyers, accountants, architects, planners, engineers, and similar professions.
4. Private clubs, fraternity houses, sorority houses, lodges, and similar establishments, but specifically excluding those establishments which have a name or legal basis as the aforesaid, but are in fact operated as a business enterprise, and also excluding concessions associated with the aforesaid which are operated as a business enterprise.
5. Buildings of non-profit community organizations and social welfare establishments.
6. Rooming houses, boarding houses, and assisted living centers.

**Section 5-406. Certain uses lying in airport noise zones declared incompatible and excluded.**

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

## **Section 5-407. Space limitations.**

### ***Building Height Limit***

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

### ***Required Lot Area***

Not less than six thousand (6,000) square feet for residential uses located in a subdivision which will have planned streets, community water supply, and community waste facilities. For religious or cultural uses, one (1) acre is required. For lots built upon before community water and waste systems are available, required lot area shall be the same as Agriculture District C.

### ***Percentage of Lot Coverage***

All buildings, including accessory buildings, shall not cover more than fifty (50) percent of the area of the lot.

### ***Yards Required***

1. Minimum front yard setback: Twenty-five (25) feet.
  - a. Minimum setback from Highway 83 and 1804 rights-of-way shall be fifty (50) feet.
2. Minimum rear yard setback: Twenty-five (25) feet or equal in depth to the height of the building, whichever is greater.
3. Minimum side yard setback: Not less than ten (10) feet, but each side yard shall be equal to one-fourth ( $\frac{1}{4}$ ) the height of the building.

### ***Required Court Dimensions***

The least dimension of an inner court shall not be less than one-half ( $\frac{1}{2}$ ) the height of the building which contains the court.

***Sections 5-408 to 5-499, inclusive. Reserved.***

***Sections 6-101 to 6-109, inclusive. Local Business District.***

**Section 6-101. Legal boundary descriptions for the Local Business District.**

Reserved.

**Section 6-102. Statement of purpose for the Local Business District.**

To provide a wide range of retail and service establishments.

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

Retail and service stores of the following types:

1. New and used automobile, truck, tractor, construction equipment, boat, trailer, and farm machinery sales rooms and lots, but excluding the storage of vehicles, boats, trailers, or machinery not in operable condition or in the process of salvage, or the major parts thereof. Automotive repair, except heavy truck equipment work.
2. Bowling alley, trampoline or rebound equipment center, miniature golf, pool hall, dance hall, kiddy parks, skating rinks.
3. Buildings other than heavy storage and maintenance shops for municipal or governmental purposes.
4. Business and commercial schools.
5. Clinics for people only.
6. Combination display store, office, and fabrication shop for electrical, plumbing, heating and refrigeration contractors, and automobile supply house with minor overhaul and machining of parts.
7. Convenience store.
8. Feed and seed store.
9. Frozen food lockers for individual or family trade, but no slaughtering, killing, eviscerating, skinning, plucking, or smoking on the premises.
10. Furniture and antique homes and stores including used furniture store.
11. Gasoline service stations and garages for the storage of automobiles, including major repair, body and fender work, or painting.
12. Garden supplies including nursery stock.
13. Greenhouses, commercial; nursery stock sales yards.

14. Meat market, retail, but no killing, eviscerating, skinning, plucking, or smoking of food products on the premises.
15. Motel, hotel.
16. Office buildings.
17. Railroad through and spur tracks, but no siding or other terminal type facilities and no service, repair, or administrative facilities.
18. Real estate sales office.
19. Shoe repair shop.
20. Steakhouse, cocktail lounge.
21. Television, radio, and small appliance repair.
22. Utility substations necessary to the functioning of the utility but not including maintenance facilities and other general system facilities when located according to the yard space rules set forth in this section for dwelling and having a landscaped or masonry barrier on all sides. Buildings shall conform to all space limits of this district and shall be of such exterior design as to harmonize with nearby properties.
23. Billboards.

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

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

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

**Section 6-105. Certain uses lying in airport noise zones declared incompatible and excluded.**

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

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

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

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

#### **Section 6-106. Accessory uses.**

The following accessory uses are permitted subject to further restrictions or liberalizations which are imposed by a specific district:

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

#### **Section 6-107. Conditional uses.**

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

## **Section 6-108. Space limitations.**

### ***Building Height Limit***

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

### ***Required Lot Area***

Not less than one (1) acre.

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

### ***Percentage of Lot coverage***

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

### ***Yards required***

1. Minimum front yard setback: Forty (40) feet.
  - a. Minimum setback from Highway 83 and 1804 rights-of-way shall be fifty (50) feet.
2. Minimum rear yard setback: Twenty (20) feet.
3. Minimum side yard setback: Twenty (20) feet, except on corner lots on which the side set back shall be not less than forty (40) feet unless approved by the Board of Adjustment.

## **Section 6-109. Requirements for selected uses.**

1. Off-street parking and loading shall be provided for all uses established in this district unless otherwise specified herein.
2. Only one building for living purposes shall be permitted on one zoning lot except as otherwise provided herein.
3. Automobile repair shops and filling stations shall be subject to the following provisions:
  - a. No repair work is performed out-of-doors.
  - b. Pumps, lubricating, or other devices shall be at least twenty (20) feet from any street line.

- c. All gasoline, liquefied petroleum gas, fuel, oil, or similar substances that are for resale may be stored underground or above ground provided state and federal requirements are met.
  - d. All automobile parts, dismantled vehicles, and similar articles shall be stored within a building.
4. All on-site advertising signs shall be located on the zoning lot in such a manner that no portion of the sign shall overhang street rights-of-way or adjoining property.

***Sections 6-110 to 6-199, inclusive. Reserved.***

***Sections 7-101 to 7-109, inclusive. Industrial District.***

**Section 7-101. Legal boundary descriptions for the Industrial District.**

Reserved.

**Section 7-102. Statement of purpose for the Industrial District.**

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

**Section 7-103. Principal permitted uses.**

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

The following uses shall be allowed in this district:

1. Trucking terminals containing in excess of four (4) loading or transfer bays.
2. The storage above ground of liquid petroleum products or chemicals of a flammable or noxious nature when stored for resale.
3. Meat packing, slaughtering, eviscerating, and skinning.
4. Poultry killing, plucking, and dressing.
5. Railroad through and spur tracks, sidings, and other terminal type facilities.
6. Rendering of by-products or slaughtering and killing of animals or poultry.
7. Yards for the sale, transfer, and temporary holding of livestock.
8. Junk yards, auto parts salvage, and auto wrecking yards when such operations are obscured from any street or from any adjacent property by a sturdy, sight-obscuring fence in good repair, and under the condition that any burning operations be carried on in an enclosed structure provided with such super-heating devices designed to assure complete combustion as may be approved by the Zoning Administrator. Fencing must also comply with State of South Dakota and Federal Standards.
9. Billboards.
10. Warehouses and mini storage.

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

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

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

**Section 7-105. Accessory uses.**

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

**Section 7-106. Conditional uses.**

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

**Section 7-107. Performance standards.**

***Air Contaminants***

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

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

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

### ***Fire Hazard***

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

### ***Noise***

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

### ***Sewage and Liquid Wastes***

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

### ***Odor***

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

### ***Gases***

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

### ***Vibration***

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

### ***Appearance***

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

## **Section 7-108. Space limitations.**

### ***Building Height Limit***

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

### ***Required Lot Area***

Not less than one (1) acre.

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

### ***Percentage of Lot Coverage***

Entire lot may be covered except as hereinafter otherwise specified.

### ***Yards Required***

1. Minimum front yard setback: Forty (40) feet.
  - a. Minimum setback from Highway 83 and 1804 rights-of-way shall be fifty (50) feet.
2. Minimum rear yard setback: Twenty-five (25) feet.
3. Minimum side yard setback: Twenty-five (25) feet, except on corner lots on which the side setback shall be not less than forty (40) feet unless approved by the Board of Adjustment.

### **Section 7-109. Requirements for selected uses.**

1. Off-street parking and loading shall be provided for all uses established in this district unless otherwise specified herein.
2. Automobile repair shops and filling stations shall be subject to the following provisions:
  - a. No repair work is performed out-of-doors.
  - b. Pumps, lubricating, or other devices shall be at least twenty (20) feet from any street line.
  - c. All gasoline, liquefied petroleum gas, fuel, oil, or similar substances, that are for resale may be stored underground or above ground provided all state and federal requirements be met.
  - d. All automobile parts, dismantled vehicles, and similar articles shall be stored within a building.
3. All on-site advertising signs which are not attached to or made part of a commercial structure shall be located on the zoning lot in such a manner that no portion of the sign shall overhang street rights-of-way or adjoining property.

***Sections 7-110 to 7-199, inclusive. Reserved.***

***Sections 7-201 to 7-206, inclusive. Industrial Park District.***

**Section 7-201. Legal boundary descriptions for the Industrial Park District.**

Reserved.

**Section 7-202. Statement of purpose for the Industrial Park District.**

This district provides for a limited range of commercial and industrial uses.

**Section 7-203. Principal permitted uses.**

Any use which can meet the performance standards of this district.

Wholesaling, manufacturing, jobbing, warehousing, or business of a similar nature subject to the regulations as hereinafter specified.

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

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

1. Any use which cannot meet the performance standards set forth herein.
2. All dwellings and other types of living accommodations shall be prohibited, save that quarters for a watchman or caretaker shall be permitted as an accessory for any permitted use.
3. Billboards.

**Section 7-205. Performance standards and requirements for selected uses.**

1. Any use which may be, or may become, a nuisance or annoyance by reason of excessive emission of noise, smoke, fumes, odors, vibrations, glare, or similar substances and conditions, or by reason of unsightliness, shall be prohibited. Standardized measurements taken by standardized methods and equipment shall be used as proof of non-compliance and the cost of said measurements shall be borne by the occupant.
2. The storage of all materials and equipment used in connection with the development shall be enclosed within buildings or substantial fences.
3. No building or premises shall be used, erected, or altered until and unless a permit for the contemplated development has been secured from the Board of Adjustment. There shall have been filed with the Zoning Administrator a written application for said permit. Said applications shall include the following information:
  - a. The location of present and proposed buildings, parking lots, driveways, and other necessary facilities indicated on a plot plan.

- b. Preliminary architectural plans for the proposed building, or buildings.
- c. A written description indicating the effects of the industrial operations in producing problems of glare, noise, odor, sewerage, fire hazards, air pollution, or water pollution, or of excessive traffic congestion, or other factors detrimental to the safety, health, and welfare of the area.
- d. Any other information the Board of Adjustment may deem as necessary to adequately consider the cost of providing municipal services to the area and the effect the proposed uses may have upon the surrounding properties.

**Section 7-206. Space limitations.**

***Building Height Limit***

No building shall exceed two and one-half (2½) stories, or forty-five (45) feet in height.

***Required Lot Area***

Individual building sites shall be of such size that the requirements of this chapter are satisfied and be of such size that the development will have architectural unity.

An Industrial Park District shall have a minimum area of at least twenty (20) acres.

***Percentage of Lot Coverage***

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

***Yards Required***

1. Minimum front yard setback: Sixty (60) feet. Required front yard shall be landscaped and maintained to provide an attractive setting for the building.
2. Minimum rear yard setback: Thirty (30) feet. Where the rear yard abuts a lot in a residential district, said rear yard setback shall be fifty (50) feet. Required rear yards shall be planted and maintained to provide an admirable and well-kept condition.
3. Minimum side yard setback: Ten (10) feet. Where the side yard abuts a lot in a residential district, said side yard setback shall be fifty (50) feet. Required side yards shall be planted and maintained to provide an admirable and well-kept condition.

***Sections 7-207 to 7-299, inclusive. Reserved.***

***Sections 8-101 to 8-103, inclusive. Riverfront District.***

**Section 8-101. Legal boundary descriptions for the Riverfront District.**

USA Take bordering the Missouri River.

**Section 8-102. Statement of purpose for the Riverfront District.**

This district is designed to maintain public access to Lake Oahe of the Missouri River for fishing, boating, and other recreational activities.

**Section 8-103. Principal permitted uses.**

1. No residential use is permitted.
2. Use is limited to parks, recreation, commercial, public building, and marine facilities to the end that the entire waterfront may be developed to a coordinated plan.

***Sections 8-104 to 8-199, inclusive. Reserved.***

***Sections 9-101 to 9-106, inclusive. Mobile or Manufactured Home Parks.***

**Section 9-101. Districts in which mobile or manufactured home parks permitted - procedures for application and issuance of permit.**

1. Mobile or manufactured home parks are permitted as a conditional use in One Family Residential District 2-C.
2. No lot or parcel of land shall be used until and unless a permit has been secured from the Board of Adjustment. There shall have been filed with the Zoning Administrator a written application for said permit. Said application shall include the following information:
  - a. A plot showing the location of present and proposed buildings, driveways, proposed location of units, and sanitary conveniences.
  - b. A statement relative to water supply, sewage, and garbage.
  - c. A copy of the plans and specifications of all proposed buildings.
  - d. The location and legal description of the mobile or manufactured home park.

**Section 9-102. Issuance of mobile or manufactured home park permit by Zoning Administrator upon certain findings by the Board of Adjustment.**

Upon the finding by the Board of Adjustment that the proposed mobile or manufactured home park will constitute a development of sustained desirability, that it will not result in an over-intensive use of the land, that it will not result in undue traffic hazards, and that it will not otherwise be detrimental to the health, safety, and welfare of the county, the Zoning Administrator may issue permits for the proposed mobile or manufactured home park.

**Section 9-103. Space limitations.**

***Building Height Limit***

No building shall exceed two and one-half (2½) stories, or thirty-five (35) feet in height.

***Required Area for a Mobile or Manufactured Home Space***

Mobile or manufactured home spaces shall be provided, consisting of a minimum of six thousand (6,000) square feet for each space, which shall be clearly defined and marked, and single units shall comply with requirements of One Family Residential District 2-C. The minimum area for any mobile or manufactured home park shall be one (1) acre.

***Yards Required***

The front and rear of any mobile or manufactured home shall not be located closer than fifteen (15) feet from any other mobile or manufactured home or from any building within the mobile or manufactured

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

**Section 9-104. Requirements for driveways, vehicular access and parking, and lighting of mobile or manufactured home parks.**

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

**Section 9-105. Requirements for site drainage and grading, underground wiring, fencing, and playgrounds for mobile or manufactured home parks.**

1. The mobile or manufactured home park shall be located on a well-drained site, properly graded to insure rapid drainage.
2. One or more playgrounds shall be provided as required by the County Commission and of the size approved by them.
3. All wiring in the mobile or manufactured home park shall be placed underground.

**Section 9-106. Requirements for placement of mobile or manufactured homes.**

1. Tie-downs shall be placed a minimum at all four corners and/or per manufacturer's recommendations.
2. Mobile or manufactured homes shall be supported as per manufacture's recommendations.
3. All steps and landings shall conform to the Uniform Building Code as adopted by Sully County.

***Sections 9-107 to 9-199, inclusive. Reserved.***

***Sections 10-101 to 10-103, inclusive. Planned Unit Development.***

**Section 10-101. Statement of purpose for a Planned Unit Development.**

The purpose and intent of a planned unit development is to permit diversification in the development in the county without in any way jeopardizing or reducing zoning standards which promote public safety, convenience, health, and general welfare, as well as preserve personal and property rights. For this purpose, the provisions of this ordinance shall be subject to such exceptions as are provided by the following unit plan regulations:

**Section 10-102. Requirements and procedures for planned unit developments for residential developments.**

The owner or owners of any tract of land proposing to subdivide the property into lots or parcels comprising of less than thirty-five (35) acres in area shall submit to the Planning Commission a plan for the use and development of the entire tract of land for residential purposes.

Before a hearing before the Planning Commission is approved, the developer shall file a report with substantiating evidence stating the reasons the development plan should be approved and specific evidence showing that the proposed development meets the following conditions:

1. That the plan is consistent with the intent and purpose of this ordinance to promote public health, safety, morals, and general welfare.
2. That the value of buildings and the character of the property adjoining the area included in such plan will not be adversely affected.
3. That the average lot area per family contained in the site exclusive of the area occupied by streets will not be less than the lot area per family required for the district in which the development is located.
4. That the building(s) will be used for residential purposes and the customary accessory uses such as garages, storage space, or community activities including churches.

After study and public hearing, the Planning Commission may recommend to the County Commission the approval or disapproval of the development plan. The County Commission may then authorize the issuance or denial of the building permits and certificates of occupancy therefore even though the use of the land and location of structures do not conform in all respects to the regulations contained in other sections of this ordinance.

**Section 10-103. Requirements and procedures for planned unit development for commercial developments.**

The owner or owners of any tract of land shall submit to the Planning Commission a plan for the use and development of the entire tract of land for local commercial purposes. Before a hearing before the Planning Commission is approved, the developer shall file a report with substantiating evidence stating

the reasons the development plan should be approved and specific evidence and facts showing that the proposed development meets the following conditions:

1. That the plan is consistent with the intent and purpose of this ordinance to promote public health, safety, morals, and general welfare.
2. That the value of buildings and the character of the property adjoining the area included in such plan will not be adversely affected.

After study and public hearing, the Planning Commission may recommend to the County Commission the approval or disapproval of the development plan. The County Commission may then authorize the issuance or denial of the building permits and certificates of occupancy therefore even though the use of the land and location of structures do not conform in all respects to the regulations contained in other sections of this ordinance.

***Sections 10-104 to 10-199, inclusive. Reserved.***

***Sections 11-101 to 11-106, inclusive. Airport Noise Zone A.***

**Section 11-101. Official airport noise zone map and description.**

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

**Section 11-102. Legal boundary descriptions for Airport Noise Zone A.**

Reserved.

**Section 11-103. Statement of purpose for Airport Noise Zone A.**

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

**Section 11-104. Principal permitted uses.**

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

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

**Section 11-105. Certain uses lying in Airport Noise Zone A declared incompatible and excluded:**

The following uses are hereby declared incompatible with the purpose of Airport Noise Zone A and are hereby expressly excluded:

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

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

**Section 11-106. Accessory uses.**

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

***Sections 11-107 to 11-199, inclusive. Reserved.***

*Sections 11-201 to 11-202, inclusive. Airport Noise Zone B.*

**Section 11-201. Legal boundary descriptions for Airport Noise Zone B.**

Reserved.

**Section 11-202. Statement of purpose for Airport Noise Zone B.**

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

*Sections 11-203 to 11-299, inclusive. Reserved.*

***Sections 12-101 to 12-102, inclusive. Recreational Vehicle Park District.***

**Section 12-101. Property development standards.**

The following property development standards shall apply for all recreational vehicle parks:

1. The density of the recreational vehicle park is subject to review by the Board of Adjustment on an individual basis with prime consideration given to location within the jurisdiction of this ordinance. The burden of justifying the density shall be upon the applicant for the conditional use permit.
2. Accessory buildings, electrical, water, and sewer facilities shall be designed to provide services adequate for the type of recreational vehicles and/or tent camps to be served. The adequacy will be reviewed by the Board at the hearing for the conditional use.

**Section 12-102. Application for conditional use permit.**

The application for a recreational vehicle park shall be processed in accordance with conditional use permits. Such application shall be reviewed and approved or denied by the Board of Adjustment.

The following information shall be shown on the conditional use permit application:

1. The location and legal description of the proposed recreational vehicle park.
2. Plans and specifications of all buildings, improvements, and facilities constructed or to be constructed within the recreational vehicle park.
3. The proposed use of buildings shown on the site.
4. The location and size of all recreational vehicle spaces.
5. The location of all points of entry and exit for motor vehicles and internal circulation pattern.
6. The location and type of all landscaping to be provided.
7. The location and type of all lighting standards to be provided.
8. The location of all walls and fences and an indication of their height and the materials of their construction.
9. The name and address of the applicant.
10. Such other architectural and engineering data that may be required to permit the Board of Adjustment to determine if the provisions are in compliance with this ordinance.
11. A time schedule for development shall be prepared which shall demonstrate the applicant's readiness and ability to provide the proposed services. All required improvements and facilities shall be installed within one year unless the Board of Adjustment approves a plan for staged construction.

12. Utility service connections to be provided.
13. A domestic water system and wastewater disposal system approved by the State of South Dakota.
14. A typical lot plan for a recreational vehicle space detailing location and method.
15. A complete drainage plan to include topography to at least five-foot contour intervals.

***Sections 12-103 to 12-199, inclusive. Reserved.***

# APPENDIX A

## SULLY COUNTY PLANNING AND ZONING ADMINISTRATIVE FEES

EFFECTIVE FEBRUARY 3, 2021

**BUILDING PERMIT ..... \$10 + \$1 PER THOUSAND OVER \$1,000\***  
\*Estimated construction cost (materials + labor)

- One-time Renewal = 50% of original fee
- No/Late Permit = Standard permit fee + 20%
- Fee waived for tax exempt structures

**PLAT ..... \$150**

**CONDITIONAL USE ..... \$300**

**VARIANCE ..... \$300**

**APPEAL ..... \$300**

**REZONE ..... \$400**

**PLANNED UNIT DEVELOPMENT ..... \$400**

**SPECIAL MEETING ..... \$500**

*ALL FEES PAID ARE NON-REFUNDABLE*