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1997 REVISED ZONING ORDINANCE
OF BROOKINGS COUNTY, SOUTH DAKOTA

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A RESOLUTION ESTABLISHING A COMPREHENSIVE ZONING ORDINANCE AMENDMENT FOR BROOKINGS COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967 AND AMENDMENTS THEREOF.

WHEREAS, the Brookings County, South Dakota, Board of County Commissioners, hereinafter referred to as the Board of County Commissioners, deems it necessary, for the purpose of promoting the health, safety, and the general welfare of the County, to enact a zoning ordinance and to provide for its administration, and

WHEREAS, the Board of County Commissioners has appointed a County Planning Commission, hereinafter referred to as the Planning Commission, to recommend the district boundaries and to recommend appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided Brookings County into districts, and has established by reference to maps the boundaries of said districts for administration and interpretation; has provided for definitions and for amendments to this regulation; has provided for the enforcement; prescribed penalties for violation of provisions; has provided for building permits within the districts; has provided for invalidity of a part and for repeal of regulation in conflict herewith; and has prepared regulations pertaining to such districts in accordance with the county comprehensive plan and with the purpose to protect the tax base, to guide the physical development of the county, to encourage the distribution of population or mode of land utilization that will facilitate the economical and adequate provisions of transportation, roads, water supply, drainage sanitation, education, recreation, or other public requirements, to conserve and develop natural resources, and

WHEREAS, the Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, and

WHEREAS, the Planning Commission has made a preliminary report and submitted it to the Board of County Commissioners, and

WHEREAS, the Board of County Commissioners has given due public notice to a hearing relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

WHEREAS, all requirements of SDCL 11-2, 1967, with regard to the preparation of this ordinance and subsequent action of the Board of County Commissioners, has been met, and

WHEREAS, copies of said zoning ordinance and zoning map have been filed with the Brookings County Auditor for public inspection and review during regular business hours, and

THEREFORE BE IT RESOLVED that the Brookings County Zoning Ordinance Amendment is hereby adopted by the Board of County Commissioners, Brookings County, South Dakota.

This ordinance shall take effect and be in full force and effect twenty (20) days after its passage.

All ordinances or parts of ordinances in conflict therewith are hereby repealed.

1st Reading July 29, 1997

2nd Reading August 5, 1997

Published August 13, 1997

Adopted this 5th day of August 1997.

Barbara Telkamp

Barbara Telkamp, Chairperson
Brookings County Commission

ATTEST:

Sara Kneip 8-5-97

Sara Kneip, Brookings County Auditor

ARTICLE I

SHORT TITLE AND APPLICATION

Section 101. This regulation may be known and may be cited and referred to as the "Brookings County Zoning Regulation" to the same effect as if the full title were stated.

Section 102. Jurisdiction. Pursuant to SDCL Chapter 11-2, 1967 as amended, the provision of this regulation shall apply within the un-incorporated areas of Brookings County, South Dakota, and including any joint jurisdictional areas, as established on the map entitled "The Official Zoning Map of Brookings County, South Dakota."

Section 103. Provisions of Regulation Declared to be Minimum Requirements. In their interpretation and application, the provisions of this regulation shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this regulation are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

ARTICLE II

DEFINITIONS

Section 201. For the purpose of this regulation, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure", and the word "shall" is mandatory and not discretionary.

Section 202. A 25-year, 24-hour Storm Event is the amount of rainfall in a 24-hour period expected to occur only once every 25 years. Typically, the 25-year, 24-hour storm event is about 5 inches in Brookings County. The map in Appendix A shows the actual amount of rainfall that constitutes the 25-year, 24-hour storm event for South Dakota.

Section 203. Accessory Buildings and Uses. is a subordinate use which is incidental to that of the main building or to the main use of the premises. Buildings of 120 square feet or less are not required to have a building permit.

Section 204. 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 gases.

Section 205. Animal Feeding Operation Structure means an anaerobic lagoon, formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building.

Section 206. Animal Manure is poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.

Section 207. Animal Unit See page 76.

Section 208. 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.

Section 209. Aquifer is a geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.

Section 210. Basement. A basement has more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes, other than by a janitor.

Section 211. Bed and Breakfast Home. A building in which not to exceed five (5) rooms are rented to transients.

Section 212. Best Management Practices (BMP) means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, waste or manure stockpiles, or drainage from raw material storage.

Section 213. Building is any structure in excess of 120 square feet designed for the support, shelter and protection of persons, animals, or property.

Section 214. Buildings, Height of. The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip and gambrel roofs.

Section 215. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Section 216. Change in Operation means a cumulative increase of more than 500 animal units, after May 13, 1997, which are confined at an un-permitted concentrated feeding operation.

Section 217. A Chronic or Catastrophic Event is a single precipitation event, or a series of rainfall events in a short period of time, that totals or exceeds the volume of a 25-year, 24-hour storm event. The event includes tornadoes, or other catastrophic conditions. The event would directly result in, or cause, an overflow from the containment structure or lagoon that receives and contains runoff from an open lot.

Section 218. Common Ownership is defined as single, corporate, cooperative or other joint operation or venture.

Section 219. Concentrated Animal Feeding Operation see page76.

Section 261. Parking Space. An area, enclosed or un-enclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley.

Section 262. Permit is required by these regulations unless stated otherwise.

Section 263. Potential Pollution Hazard A Concentrated Animal feeding Operation of 100 to 500 Animal Units may be classified as a Class D Operation by the County Zoning Officer when a Potential Pollution Hazard exists. Factors to be considered by the Zoning Officer in determining a Potential Pollution Hazard include the following:

a. The Concentrated Animal Feeding Operation does not meet the minimum setback and separation distances of these regulations.

b. A Potential Water Pollution Hazard exists due to sitting over a shallow aquifer or drainage which contributes to the waters of the State.

Section 264. Process Generated Wastewater means water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

Section 265. Process Wastewater means any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the animal feeding operation. The term includes runoff from an open lot.

Section 266. Producer means the owner or operator of the concentrated livestock feeding operation.

Section 267. Sale or Auction Yard or Barn. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one (1) day during sale or auction.

Section 268. Seasonal Camp Trailers or Recreational Vehicles. A vehicle designed for temporary seasonal living quarters.

Section 269. Sediment Basin is a basin constructed to trap and store water-born sediment and debris.

Section 270. Service Station. Any building or premises where automotive fuels are stored and made available for sale and dispensing through fixed equipment into fuel supply tanks or motor vehicles and where automotive supplies and accessories may or may not be available.

Section 271. Severe Property Damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Section 272. Shall means that the condition is an enforceable requirement of this permit.

Section 273. Shallow Aquifer is an aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.

Section 274. Shallow Well is a well which is located in a shallow aquifer.

Section 275. Shelterbelt. A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock and residences, recreation and wildlife from wind.

Section 276. Should means that the condition is a recommendation. If violations of the permit occur, the Board of Adjustment will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.

Section 277. Significant Contributor of Pollution means to determine if a feedlot meets this definition, the following factors are considered:

a. Size of feeding operation and amount of manure reaching waters of the state;

b. Location of the feeding operation in relation to waters of the state;

c. Means of conveyance of manure and process wastewater into waters of the state; and

d. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal manure and process wastewater into waters of the state.

Section 278. Solid Waste (reference SDCL 34A-6-1.3, 17.) any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural opera-

ARTICLE III

ESTABLISHMENT OF DISTRICTS

Section 301. Districts. For the purpose of this regulation, the un-incorporated areas of the County may be divided into any of the following zoning districts: A--Agricultural; CI--Commercial/ Industrial; LP--Lake Park; NR--Natural Resources; Flood Plain Overlay District; Aquifer Protection Overlay District.

Section 302. Provision for official zoning map.

1. The un-incorporated area of the County is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this regulation. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, attested by the County Auditor, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 302 of the regulation adopted May 24, 1988 by Brookings County, South Dakota."

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

   No changes of any nature shall be made on the official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this regulation. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this regulation and punishable as provided under Article VIII.

2. In the event the official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may, by resolution, adopt a new official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Chairman of the Board of

County Commissioners, attested by the County Auditor, and bearing the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the official Zoning Map adopted (date of adoption of map being replaced) for Brookings County, South Dakota." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 303. Interpretation of District Boundaries.

1. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole area in the un-incorporated portions of the County bounded by the district boundary lines.

2. In cases where the boundary line is given a position within a street, road, or non-navigable stream, it shall be deemed to be in the center of the street, road, or stream, and if the actual location of such street, road, or stream varies slightly from the location as shown on the district map, then the actual location shall control.

3. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

4. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from the railroad shall be measured from the center of the designated mainline track.

5. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and where the districts designated on the Official Zoning Map accompanying and made a part of this regulation are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map or by resolution.

6. In un-subdivided property, unless otherwise indicated, the district boundary line on the official Zoning Map accompanying and made a part of this regulation shall be determined by the use of the scale contained on such map.

Section 304. All territory which may hereafter become a part of the un-incorporated area of the County by the dis-incorporation of any village, town or city, or for some other reason may fall within the zoning jurisdiction of the County, shall automatically

be classified in the "A" Agricultural District until within a reasonable time following dis-incorporation or acquisition of zoning jurisdiction, the territory shall be appropriately classified by regulation.

Section 305. Application of District Regulations.

Except as hereafter provided:

1. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.

2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit established for the district in which the building is located.

3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area and parking regulations of the district in which the building is located.

4. The minimum yards and other open spaces, including lot area per family, required by this regulation for each and every building at the time of passage of this regulation or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this regulation.

5. Every building hereafter erected or structurally altered shall be located on a buildable lot as herein defined and in no case shall there be more than one (1) main building on one (1) buildable lot.

6. All sign sizes, light, and location shall, at a minimum, meet all State and Federal laws and regulations.

ARTICLE IV

NONCONFORMING USES OR LOTS OF RECORD

Intent: Within the districts established by this regulation or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use, which were lawful before this regulation was passed or amended but which would be prohibited, regulated or restricted under the terms of this regulation or future amendments. It is the intent of this regulation to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this regulation that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Section 401. If no structural alterations are made, any non-conforming use of a structure or structure and premises, may, as a special exception, be changed to another non-conforming use provided that the County Zoning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing non-conforming use. In determining such a change, the County Zoning Commission may require appropriate conditions and safeguards in accord with the provisions of this regulation. When a non-conforming use has been changed to a conforming use, it shall not be changed subsequently to any non-conforming use.

Section 402. In the event that a non-conforming use of any building or premises is, in fact, discontinued or its normal operation stopped for a period of one (1) year, the Board may adopt, after notice by registered or certified mail to the property owners, an amortization schedule to bring about the gradual elimination of such non-conforming use or occupancy.

Section 403. No existing building devoted to a use not permitted by this regulation, in the district in which such building is located, except when required to do so by law, shall be enlarged, extended, converted, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which the building is located.

Section 404. When a building, the use of which does not conform to the provisions of this regulation, is damaged by fire, explosion, or the public enemy, to the extent of more than sixty percent (60%) of its fair market value, it shall not be restored except in conformity with the regulations of the district in which the building is situated.

affirmative vote of two thirds (2/3) of the full membership is required to grant a variance.

1. No such variance shall be authorized by the County Zoning Commission unless it finds that the strict application of the Regulation would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.

2. No variances shall be authorized unless the County Zoning Commission finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this regulation.

3. A variance from the terms of this regulation shall not be granted by the County Zoning Commission unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or buildings in the same district; that literal interpretation of the provisions of this regulation would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this regulation; that the special conditions and circumstances do not result from the actions of the applicant, and that granting the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

4. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

5. Notice of public hearing shall be given as in Section 504; the public hearing shall be held. Any party may appear in person, or by agent or by attorney; the County Zoning Commission shall make findings that the requirements of this section have been met by the applicant for a variance; the County Zoning Commission shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the County Zoning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this regulation, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

6. In granting any variance, the County Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation.

7. Under no circumstances shall the County Zoning Commission grant a variance to allow a use not permissible under the terms of this regulation in the district involved, or any use expressly or by implication prohibited by the terms of this regulation in said district.

8. Any variance that is granted and not used within 3 years will be considered invalid.

Section 506. County Zoning Commission has Powers of Administrative officer on Appeals: Reversing Decision of Administrative officer. In exercising the above-mentioned powers, the County-Zoning Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of three-fourths (3/4) of the County Zoning Commission shall be necessary to reverse any order, requirement, decision or determination upon which it is required to pass under this regulation or to effect any variation in this regulation.

Section 507. Appeals to a Court of Record. Any person or persons, jointly or severally aggrieved by a decision of the County Zoning Commission or any taxpayer, landowner, or any officer, department, board, or bureau of the County may appeal as provided by State law.

ARTICLE VI

DUTIES OF COUNTY ZONING OFFICER, BOARD OF COUNTY COMMISSIONERS AND COURTS ON MATTERS OF APPEAL

It is the intent of this regulation that all questions of interpretation and enforcement shall be first presented to the County Zoning Officer, and that such questions shall be presented to the County Zoning Commission only on appeal from the decision of the administrative official, and that recourse from the decision of the County Zoning Commission shall be to the courts as provided by law.

It is further the intent of this regulation that the duties of the Board of County Commissioners in connection with this regulation shall not include hearing and deciding questions of interpretation and enforcement that may arise.

ARTICLE VII

SCHEDULE OF FEES, CHARGES, AND EXPENSES

Section 701. The Board of County Commissioners shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining this regulation. The schedule of fees shall be posted in the office of the County Zoning Officer and may be altered or amended only by the Board of County Commissioners. Changes in the zoning regulations or map which are initiated by incorporated communities or the County shall not require a fee.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE VIII

ENFORCEMENT

Section 801. Enforcing officer. The provisions of this regulation shall be administered and enforced by a County Zoning officer appointed by the Board of County Commissioners, who shall have the power to make inspection of building or premises necessary to carry out his duties in the enforcement of this regulation.

Section 802. Building Permit.

1. Building Permit Required. It shall be unlawful to commence the excavation for or the construction of any building, structure, or any accessory building, or to commence the moving or alteration of any buildings, including accessory buildings, until the County Zoning Officer has issued a building permit for such work. Furthermore, it shall be unlawful to commence work until the building permit is displayed in a conspicuous place visible from public right-of-way.

2. Issuance of a Building Permit. In applying to the County Zoning officer for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size, and height and location of all buildings, to be erected, altered, or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, the location of existing or proposed water and sewer facilities, and supply such other information as may be required by the County Zoning Officer for determining whether the provisions of this regulation are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this regulation, and other regulations of the County then in force, the County Zoning Officer shall issue a building permit for such excavation or construction. If a building permit is refused, the County Zoning officer shall state such refusal in writing, with the cause, and shall thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The County Zoning Officer shall grant or deny the permit within a reasonable time from the date the application is submitted.

3. The issuance of a building permit shall, in no case, be construed as waiving any provisions of this regulation. A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

Section 803. Violation and Penalty.

It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Violation thereof shall be a misdemeanor and may be punishable by a fine up to one hundred dollars ($100) for each and every day that any violator fails to comply with the provisions of these regulations. All fines for violation shall be paid to the County Auditor and shall be credited to the General Fund of the County.

In the event of a violation or a threatened violation of these regulations or restrictions, the Board of County Commissioners or any member thereof, in addition to other remedies, may institute an appropriate action or proceeding to seek an injunction in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation, and it is the duty of the State's Attorney to institute such action.

Any taxpayer of the County may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

ARTICLE XI

ZONING DISTRICTS

Section 1101. "A" Agricultural District

Purpose

This district is established to maintain and promote farming and related activities within an environment which is generally free of other land use activities. Residential development will be discouraged to minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.

Permitted Uses

1. Agricultural activities and farm related buildings, including Class E but excluding Classes A, B, C and D Concentrated Animal Feeding Operations.

2. Established residence.

3. Residential dwelling not within 1,320 feet of a Concentrated Animal Feeding Operation unless waiver registered on deed.

4. Single family residences including manufactured, mobile and modular homes on less than 35 acre lots provided that such residences are on an established farm building site, abandoned school site, or are lots of record and further provided that the proposed site has established road access, the lot has clearly delineated boundaries and the site can meet minimum water and sewer standards.

5. Fisheries services and game propagation areas;

6. Orchards, tree farms, truck gardening, nurseries and greenhouses;

7. Public parks and recreation areas;

8. Home occupations.

9. Accessory buildings of 120 square feet or less are not required to have a building permit.

Special Exceptions

1. Airports and airstrips;

2. Church or cemetery;

3. Golf course, golf driving range;

4. Sand, gravel or quarry operation, mineral exploration and extraction;

5. Rock crushers, concrete and asphalt mixing plants;

6. Contractors shops and yards;

7. Sanitary landfills provided:

   a. The site meets the requirements of the State Department of Water and Natural Resources.

   b. A site plan is provided indicating the following information:

      (1) Present topography, soil types, depth to groundwater.

      (2) Location of existing water drainage, existing buildings, existing shelterbelts.

      (3) Identification of roads leading to the site.

      (4) Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.

      (5) Proposed monitoring wells, etc.

   c. A minimum of 1,320 feet from the landfill property line to the nearest residence; excluding the residence of the landfill operator.

8. Institution farms, including religious farming communities;

9. Sewage treatment plants;

10. Fur farms;

11. Class A, B, C, and D Concentrated Animal Feeding Operations. See Section 1211.

12. Stables, dog/cat kennels;

8. Non-conforming lots of record that are allowed to develop must meet the following setbacks:

	Per Unit Density Sq. Ft	Min. Lot Area Sq. Ft. Well	Min. Lot Area Sq. Ft. Rural Water	Min. Lot Width	Min. Front Yard	Min. Side Yard	Min. Rear Yard
Single Family Dwelling	20,000'	43,560'	20,000'	60'	50'	8'	50'
Other Allowable Uses	20,000'	20,000'	20,000'	60'	50'	8'	50'

Height Regulations

No main buildings shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. Exceptions include the following:

1. Agricultural buildings;
2. Chimneys, smokestacks, cooling towers;
3. Radio and TV towers;
4. Water tanks;
5. Elevators;
6. Others, providing that they are not used for human occupancy.

Section 1102. "CI" Commercial/Industrial District

Purpose

The "CI" District is intended for commercial and industrial uses which due to their size and nature require highway access.

Permitted Use

1. Permitted uses in the "A" Agricultural District except residential dwellings.
2. Manufacturing and processing plants for agricultural products and by-products and storage and related facilities for such operations.

Special Exceptions

1. Implement sales and service;
2. Truck terminals and freight warehouses;
3. Seed sales and grain storage, fertilizer and chemical storage and sales;
4. Highway and street maintenance shops;
5. Welding and machine shops;
6. Gas, oil and liquid propane stations including bulk stations;
7. Public and private utilities;
8. Livestock sales;
9. Contractors' shops and yards;
10. Wholesale distributing companies;
11. Restaurants;
12. Motels;
13. Special exceptions in the "A" Agricultural District except residential dwellings.

Section 1106. Aquifer Protection Overlay District.

Purpose

The Brookings County Planning Commission and Board of County Commissioners recognize (1) that residents of Brookings County rely exclusively on ground water for a safe drinking water supply and (2) that certain land uses in Brookings County can contaminate ground water particularly in shallow/surficial aquifers.

The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow/surficial aquifers of Brookings County. It is the intent to accomplish this, as much as possible, by public education and securing public cooperation.

Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations. It is not the intent to grandfather in existing land uses which pose a serious threat to public health through potential contamination of public water supply well head areas.

Definitions

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

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

3. Buffer Zone. An area outside and adjacent to Zone A that has been delineated to account for possible changes in the boundaries of Zone A due to effects of irrigation pumping.

4. Chemigation. The process of applying agricultural chemicals (fertilizer or pesticides) using an irrigation system by injecting the chemicals into the water.

5. Class V Injection Well. A conduit through which potentially contaminated but generally non-hazardous fluids can move from the land surface to the subsurface; the types of primary concern are (1) commercial/industrial facility septic tanks when they are used to dispose of more than domestic wastewater and (2) dry wells for repair/service bay drains at facilities servicing motorized vehicles/ equipment.

6. Concentrated Animal Feeding Operation See Section 1211.

7. Contamination. The process of making impure, unclean, inferior, or unfit for use by introduction of undesirable elements.

8. Contingency Plans. Detailed plans for control, re-containment, recovery and clean up of hazardous materials released during fires, equipment failures, leaks and spills.

9. Corner Lot is a lot with two front yards.

10. Development. The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

11. Facility. Something that is built, installed or established for a particular purpose.

12. Grey Water. All domestic wastewater except toilet discharge water.

13. Hazardous Materials. A material which is defined in one or more of the following categories.

    a. Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture or which has low flash points. Examples: white phosphorous and gasoline.

    b. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: PCBs in some waste oils.

    c. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.

    d. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.

    e. Moderately Toxic: A gas, liquid or solid which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.

    f. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

14. Manure Storage Area. An area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons.

2. Existing Concentrated Animal Feeding Operations will not be able to expand beyond a total of 500 animal units (Class D).

3. Earthen storage basins and lagoons.

4. Disposal of or stockpiling of solid waste.

5. Post harvest application of nitrogen fertilizer prior to October 15th except for the spreading of manure.

6. Storage of road salt or disposal of snow containing deicing chemicals.

7. Processing and storage of PCB containing oils;

8. Car washes;

9. Auto service, repair or painting facilities and junk or salvage yards;

10. Disposal of radioactive waste;

11. Graveyards or animal burial sites;

12. Open burning and detonation sites;

13. All other facilities involving the collection, handling, manufacture, use storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality;

14. Land spreading or dumping of petroleum contaminated soil, waste oil or industrial wastes.

15. Class V injection wells.

16. All uses not permitted or not permitted as special exceptions in Zone A.

Zone B -- Aquifer Secondary Impact Zones

Zone B is established as the remainder of the mapped shallow/ surficial aquifer not included in Zone A.

This portion of the aquifer is being protected because (1) it is a valuable natural resource for future development, (2) it provides drinking water supply for individual households, (3) contamination is not justified, even though this area is not a public water supply wellhead and (4) contaminants could eventually reach Zone A.

Permitted Uses in Zone B:

1. All uses permitted in the underlying zoning districts provided that they can meet the Performance standards as outlined for the Aquifer Protection Overlay Zones.

Special Exceptions in Zone B:

1. New Class D and expansion of existing Class D up to 999 animal units (Class C).

2. Sediment basins will be allowed on a case by case basis and must be constructed to current NRCS standards and specifications.

3. All special exceptions allowed in underlying districts may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Prohibited Use in Zone B:

The following use is expressly prohibited in Zone B:

1. New and expansion of Class A, B and C Concentrated Animal Feeding Operations.

2. Earthen storage basins and lagoons.

3. Post harvest application of nitrogen fertilizer prior to October 15th except for the spreading of manure.

4. Land spreading or dumping of petroleum contaminated soil, waste oil or industrial wastes.

5. Class V injection wells.

Performance Standards:

The following standards shall apply to land uses in Zones A and B of the Aquifer Protection Overlay Districts:

1. New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the State Department of Water and Natural Resources.

Section 1209. Home Occupations.

Home occupations shall be subject to the following requirements:

1. Such use shall be conducted entirely within a dwelling and carried on by not more than two (2) individuals, one of whom is the principal occupant.

2. Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof.

3. The total area used for such purposes shall not exceed the equivalent of one-fourth (1/4) the floor area, in square feet, of the first floor of the user's dwelling unit, if any, otherwise of the main floor of such dwelling unit; but in any instance a maximum of three hundred (300) square feet shall be allowed.

4. There shall be no advertising, display or other indications of a home occupation on the premises except as follows: (1) there is used no sign other than a non-lighted and non-reflecting name plate not more than sixteen (16) square feet in area, which name plate may designate the home occupation carried on within, and which name plate must be clearly visible at the entrance to the premises where said home occupation is carried on and must be attached to the building wherein the home occupation is conducted.

5. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products, provided that incidental retail sales may be made in connection with other permitted home occupations.

6. There shall be no exterior storage on the premises of material used in the home occupation nor of any highly explosive or combustible material.

7. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

8. A home occupation, including studios or rooms for instruction, shall provide an additional off-street parking area adequate to accommodate needs created by the home occupation of not less than two (2) parking spaces plus the parking spaces required for the dwelling unit. Such parking shall be provided on the same lot as the home occupation.

9. For the purposes of this section, provided all requirements contained herein are met, the following shall be considered home occupations:

    a. Professional and service offices;

    b. Art and photo studio;

c. Dressmaking or millinery;

d. Teaching, with musical instruction limited to two (2) pupils at a time;

e. The keeping of not more than two (2) roomers or boarders;

f. Tea room;

g. Barber shop;

h. Beauty shop;

i. Antique shop;

j. Other uses in the opinion of the Board of Adjustment which would not be detrimental.

Section 1210. Extended Home Occupation.

There are significant differences between home occupations on small tracts and agricultural home occupations. The nature of resources available for use, the benefits and disadvantages created by home occupations, and the problems generated necessitate a distinction between urban home occupations and farm home occupations. Each concept is based on supplementing income, but the districts in which each is practiced has unique characteristics. For the aforesaid reasons, different home occupations may be permitted in agricultural zoning districts than are permitted in the urban residential districts.

1. For the purpose of this section, provided all requirements are met, the following shall be considered farm home occupations:

   a. Welding repair conducted in a safe manner;

   b. Veterinarian's office;

   c. Blacksmith;

   d. Service office;

   e. Others which, in the opinion of the Board of Adjustment would be in the same general character as those noted above.

2. Any home occupation shall be clearly supplementary to the principal use of the land and structures.

b. Map of easements for WES.

c. Map of occupied residential structures, businesses and public buildings.

d. Map of sites for WES, access roads and utility lines.

e. Location of other WES in general area.

f. Project schedule.

g. Mitigation measures.