2017 REVISED BERESFORD ZONING REGULATIONS

Prepared by the South Eastern Council of Governments at the direction of the Planning Commission and City Council of the City of Beresford, South Dakota

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1

GENERAL PROVISIONS

1.01 Title and Application

These regulations shall be referred to as the Zoning Ordinance of the City of Beresford, and herein as “this Ordinance”.

1.02 Jurisdiction

The provisions of this Ordinance shall apply to all territory within the boundaries of the City of Beresford, South Dakota, as established on the Official Zoning Map of the City of Beresford.

1.03 Purpose

This Ordinance is based upon the Beresford Comprehensive Plan adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws. It is designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

This Ordinance is intended to:

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

1.04 Provisions of Ordinance Declared to be Minimum Requirements

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

1.05 Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions established in the granting of Variances, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction be subject to the penalties established by South Dakota law. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure or premises, any architect, builder, contractor, agent or other person who commits, maintains, assists in or participates in such violation may be found guilty of a separate offense and suffer the penalties provided.

1.06 Separability Clause

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

1.07 Repeal of Conflicting Ordinances

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

1.08 Effective Date

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

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DISTRICTS AND BOUNDARIES

2.01 Districts Designated

The City is hereby divided into the following districts:

NRC	Flood Plain / Conservation
R-1	Residential - Single Family
R-2	Residential - Multi-Family
R-3	Residential - Manufactured Housing
R-4	Residential - Tiny Housing
CB	Central Business
GB	General Business
LI	Light Industrial
HI	Heavy Industrial

2.02 Adoption of Official Zoning Map

The Official Zoning Map for the City of Beresford, on record with the Finance Officer, is hereby adopted by reference and declared to be a part of this Ordinance.

2.03 Changes to Official Zoning Map

Changes to or replacement of the Official Zoning Map shall require amendment of this Ordinance, as provided for in Chapter 18.

2.04 Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following platted lot lines or city limits shall be interpreted to follow such platted lot lines or city limits;

B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;

C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;

D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground conflict with or differ from those shown on the Official Zoning Map, the Board of Adjustment, as established in Chapter 17, shall interpret the district boundaries;

E. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a Conditional Use Permit the extension of the regulations for either portion of the lot into the remaining portion of the lot.

2.05 Annexations

In all territories which may hereafter be annexed to the City, the zoning districts as they exist in Lincoln and Union Counties shall be continued until otherwise changed by ordinance.

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NRC: NATURAL RESOURCE CONSERVATION DISTRICT

The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to protect views, to preserve natural settings for wildlife habitats, to add to the aesthetic quality of the community, and to lessen the urban density.

3.01 Permitted Uses

Permitted Use	Applicable Standards
Agriculture	12.02
Farm Dwellings, Single-Family	12.02, 12.04, 12.10, 12.11 and not within identified floodplain area
Golf Course	12.02, 12.04, 12.06 one freestanding sign allowed as allowed within 12.06
Public Park Areas	12.02, 12.06
Electrical Substation	An opaque screen, six feet in height located at all setback lines 12.02, 12.11
Public Utility Facility	12.02, 12.04, 12.06, 12.11 One freestanding sign allowed as allowed within 12.06
Cemeteries	At least two acres in size and adequate road system within cemetery 12.02 and not within an identified floodplain area One freestanding sign as allowed within 12.06
Fences	12.08
Bed and Breakfast	12.14 and all applicable farm dwelling standards One freestanding sign as allowed within 12.06

Permitted Use	Applicable Standards
Accessory use and structure (i.e. garage, shed)	12.03, 12.02 *(see definition)*

3.02 Conditional Uses

Conditional Use	Applicable Standards
One additional single-family dwelling or manufactured home	Said dwelling shall be located within the farmstead perimeter All farm dwelling, single family requirements apply Not within an identified floodplain area 19.01
Wireless Communication Facility on existing support structure	12.09, 19.01, and not within an identified floodplain area
Municipally Owned Waste Water Treatment Facility	12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Home occupation	12.12, 12.01

3.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	150 feet	50 feet	30 feet	30 feet	35 feet

<u>Exceptions</u>

#1 See Adjustment to Yard Regulations (Chapter 13) for specific exceptions.

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4

R-1: SINGLE FAMILY RESIDENTIAL DISTRICT

The purpose of this district is to provide for certain low density residential areas the City has now developed primarily with one family detached dwellings and where similar development is likely to occur.

4.01 Permitted Uses

Permitted Use	Applicable Standards
Single-family detached dwellings	12.02, 12.04, 12.06, 12.10, 12.11
Churches	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.11 One freestanding sign as allowed within 12.06
Libraries	All parking lots being 8 feet from all residential properties 12.02, 12.04, 12.11 One freestanding sign as allowed within 12.06
Schools	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.11 One freestanding sign as allowed within 12.06
Neighborhood Utilities	12.02
Electrical Substation	An opaque screen, six feet in height located at all setback lines 12.11, 12.02
Accessory structure (i.e. garage, shed)	12.03, 12.02 *(see definition)*

Permitted Use	Applicable Standards
Fences	12.08

4.02 Conditional Uses

Conditional Use	Applicable Standards
Single-family attached dwellings (up to 2)	12.02, 12.04, 12.06, 12.10, 12.11, 19.01 (this includes town homes and duplexes)
Tiny Houses and Tiny Houses on Wheels (THOWs)	12.02, 12.04, 12.05, 12.06, 12.08, 12.10, 12.11, 12.15
Group Day Care	A safe pickup and drop off area must be provided for the children All single-family dwelling standards apply 19.01
Bed and Breakfast	12.14, 19.01, and all single-family detached dwelling standards One freestanding sign as allowed within 12.06
Home occupations	12.12, 19.01, and all applicable dwelling standards
Group Home (see definition)	19.01 Structure must be a single housekeeping unit Applicant must provide copy of state agency license All single-family detached dwelling standards apply
Private garage (as a principal use)	19.01

4.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04). Lot coverage shall not exceed 50% in R-1 Districts.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Single Family Detached	7,500 sq. ft.	65 feet see #1	25 feet see #4	7 feet	20 feet	35 feet
Single Family Attached (2) 2 lots	4,350 sq. ft.	25 feet	25 feet see #4	0' or 7' on nonparty wall side	20 feet	35 feet
Single Family Attached (2) 1 lot	8,700 sq. ft.	60 feet	25 feet see #4	7 feet	20 feet	35 feet
Tiny Houses and Tiny Houses on Wheels (THOWs)	5,500 sq. ft.	50 feet	25 feet	7 feet	20 feet	13.5 feet
All other uses	7,500 sq. ft.	75 feet	25 feet see #4	15 feet	20 feet	35 feet

Exceptions

#1 A residence may be constructed on a lot-of-record which has a lot width of less than 65 feet.

#2 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line; however, the minimum lot width at the right-of-way line shall not be less than 50 feet.

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

#4 One required front yard may be reduced to 20 feet on corner lots.

#5 See also Adjustment to Yard Regulations (Chapter 13) for other specific exceptions.

5

R-2: MULTI-FAMILY RESIDENTIAL DISTRICT

The purpose of this district is to provide for certain high density residential areas the City has now developed primarily with single-family, two-family, and multiple family dwellings and where similar development is likely to occur.

5.01 Permitted Uses

Permitted Use	Applicable Standards
Multiple family dwellings	12.02, 12.04, 12.10, 12.11 one freestanding sign allowed as allowed within 12.06
Single-family detached dwellings	12.02, 12.04, 12.06, 12.10, 12.11
Single-family attached dwellings	12.02, 12.04, 12.06, 12.10, 12.11 (this includes town homes and duplexes)
Churches	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.11 One freestanding sign as allowed within 12.06
Libraries	All parking lots being 8 feet from all residential properties 12.02, 12.04, 12.06, 12.11 One freestanding sign as allowed within 12.06
Schools	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.08, 12.09 One freestanding sign as allowed within 12.06
Neighborhood Utilities	12.02

Permitted Use	Applicable Standards
Electrical Substation	An opaque screen, six feet in height located at all setback lines 12.11, 12.02
Fences	12.08
Accessory structure **(i.e. garage, shed)**	11.03, 11.02 *(see definition)*

5.02 Conditional Uses

Conditional Use	Applicable Standards
Group Day Care	A safe pickup and drop off area must be provided for the children All applicable dwelling standards apply 19.01
Group Home **(see definition)**	Structure must be a single housekeeping unit Applicant must provide copy of state agency license All single-family detached dwelling standards apply 12.04, 19.01
Home occupations	12.12, 19.01 and all applicable dwelling standards
Assisted Living Facility	Applicant must provide copy of Department of Health license All multiple dwelling standards apply One freestanding sign as allowed within 11.06 12.04, 12.11, 19.01
Nursing Home	Applicant must provide copy of Department of Health license 12.02, 12.04, 12.11, 19.01 One freestanding sign as allowed within 12.06
Bed and Breakfast	12.14 and all single-family detached dwelling standards One freestanding sign as allowed within 12.06 19.01
Convent/Monastery	12.02, 12.04, 12.06, 12.11, 19.01 one freestanding sign as allowed within 12.06

5.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04).

	Lot Area	**Lot Width**	**Front Yard**	**Side Yard**	**Rear Yard**	**Maximum Height**
3 to 8 multiple dwelling units	7,500 sq. ft.	60 feet	25 feet see #4	7 feet see #1	10 feet	45 feet
9 to 12 multiple dwelling units	20,000 sq. ft.	70 feet	25 feet see #4	15 feet	10 feet	45 feet
Over 12 multiple dwelling units	30,000 sq. ft.	85 feet	25 feet see #4	15 feet	10 feet	45 feet
Single Family Detached	7,500 sq. ft.	60 feet see #2	25 feet see #4	7 feet	25 feet	35 feet
Single Family Attached	5,000 sq. ft.	20 feet	25 feet see #4	0’ or 10’ on nonparty wall side	25 feet	35 feet
All other uses	7,500 sq. ft.	75 feet	25 feet see #4	15 feet	25 feet	35 feet

Exceptions

#1 The side yard will be required to be increased to 10 feet when the building is three stories in height or more.

#2 A residence may be constructed on a lot-of-record which has a lot width of less than 60 feet.

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

#4 One required front yard may be reduced to 20 feet on corner lots.

#5 See also Adjustment to Yard Regulations (Chapter 13) for other specific exceptions.

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R-3: MANUFACTURED HOUSING RESIDENTIAL DISTRICT

The purpose of this district is to provide for high density residential areas in the City that may be developed for all types of manufactured housing and support facilities.

6.01 Permitted Uses

Permitted Use	Applicable Standards
Manufactured Homes in Licensed Manufactured Home Parks	12.13, 12.02, 12.03, 12.04, 12.06, 12.11 Municipal code regulations regarding manufactured home parks
Manufactured Homes	12.13, 12.02, 12.03, 12.04, 12.06, 12.11 Municipal code regulations regarding manufactured home parks
Electrical Substation	An opaque screen, six feet in height, located at all setback lines 12.11, 12.02
Neighborhood Utilities	12.02
Accessory structure (i.e. garage, shed)	11.03, 11.02 *(see definition)*

6.02 Conditional Uses

Conditional Use	Applicable Standards
Churches	One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.11, 19.01 One freestanding sign as allowed within 12.06

Conditional Use	Applicable Standards
Schools	One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.11, 19.01 One freestanding sign as allowed within 12.06
Group Day Care	A safe pickup and drop off area must be provided for the children 19.01
Group Home	Structure must be a single housekeeping unit Applicant must provide copy of state agency license 19.01

6.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04).

1. Each manufactured home park shall be at least five acres.
2. The licensed manufactured home park shall be surrounded by a landscaped area 25 feet wide along all public streets and all manufactured home park boundaries.
3. The entrance to the manufactured home park shall be allowed one freestanding sign as allowed for specified uses in 12.06.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Residential Uses	5,500 sq. ft.	50 feet	25 feet	5 feet **	25 feet	35 feet
Corner Lots	6,000 sq. ft.	60 feet	25 feet *	5 feet **	25 feet	35 feet
All Other Uses	6,000 sq. ft.	60 feet	25 feet	15 feet	25 feet	35 feet

* One required front yard may be reduced to 20 feet.

** The side yard will be required to be increased to 10 feet when the building is 3 stories in height or more.

Exceptions

#1 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

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R-4: TINY HOUSING RESIDENTIAL DISTRICT

The purpose of this district is to provide for high density residential areas in the City that may be developed from tiny homes and support facilities.

7.01 Permitted Uses

Permitted Use	Applicable Standards
Tiny Houses and Tiny Houses on Wheels (THOWs)	12.02, 12.04, 12.05, 12.06, 12.08, 12.10, 12.11, 12.15
Electrical Substation	An opaque screen, six feet in height, located at all setback lines 12.11, 12.02
Neighborhood Utilities	12.02
Accessory structure **(i.e. garage, shed)**	12.03, 12.02 (*see definition*)

7.02 Conditional Uses

Conditional Use	Applicable Standards
Churches	One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.11, 19.01 One freestanding sign as allowed within 12.06
Schools	One of the principle frontages shall abut upon an arterial or collector street 12.02, 12.04, 12.11, 19.01 One freestanding sign as allowed within 12.06

Conditional Use	Applicable Standards
Group Day Care	A safe pickup and drop off area must be provided for the children 19.01
Group Home	Structure must be a single housekeeping unit Applicant must provide copy of state agency license 19.01

7.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Section 12.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Tiny Houses and Tiny Houses on Wheels (THOWs)	5,500 sq. ft.	50 feet	25 feet	7 feet	20 feet	13.5 feet
Al Other Uses	6,000 sq. ft.	60 feet	25 feet *	15 feet	25 feet	35 feet
All Other Uses on Corner Lots	6,000 sq. ft.	60 feet	25 feet *	5 feet **	25 feet	35 feet

* If a double frontage lot, one required front yard may be reduced to 20 feet.

** The side yard will be required to be increased to 10 feet when the building is 3 stories in height or more.

<u>Exceptions</u>

#1 See also Adjustment to Yard Regulations (Chapter 13) for other specific exceptions.

8

CB: CENTRAL BUSINESS DISTRICT

The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to preserving the City's Main Street Commercial Core. The grouping of uses is intended to preserve and improve the character and economic vitality of Main Street.

8.01 Permitted Uses

Permitted Use	Applicable Standards
Retail trade or service	12.02, 12.04, 12.05, 12.06, 12.11
Office	12.02, 12.04, 12.05, 12.06, 12.11
Personal service	12.02, 12.04, 12.05, 12.06, 12.11
Hotel/motel	12.02, 12.04, 12.05, 12.06, 12.11
Gasoline dispensing station	12.02, 12.04, 12.05, 12.06, 12.11
Public utility facility	12.02, 12.04, 12.05, 12.06, 12.11
Mortuary	12.02, 12.04, 12.05, 12.06, 12.11
Private Club	12.02, 12.04, 12.05, 12.06, 12.11
Churches	12.02, 12.04, 12.05, 12.06, 12.11
Arcade	Subject to not being located within 500 feet of an adult use 12.02, 12.04, 12.05, 12.06, 12.11
Rooming /boarding house	Subject to the residence being constructed above the first floor 12.02, 12.04, 12.06, 12.11
Motor vehicle service station	Gasoline pumps and gasoline pump islands shall be located more than 15 feet from the nearest property line 12.02, 12.04, 12.05, 12.06, 12.11

Permitted Use	Applicable Standards
Accessory Use (i.e. garage & shed)	12.03, 12.02 *(see definition)*
Fences	12.08
Commercial parking lots/parking ramps	12.02, 12.04, 12.06, 12.11

* measured from the closest point of the outside walls of both structures

8.02 Conditional Uses

Conditional Use	Applicable Standards
Dwellings	Being above the first floor 12.02, 12.04, 12.06, 12.11, 19.01
Adult Uses	12.02, 12.04, 12.05, 12.06, 12.11, 19.01, and SDCL Ch. 11-12
Electrical Substation	An opaque screen, six feet in height, located at setback lines 12.02, 12.11, 19.01
Wireless Communication Facility on existing support structure	12.09, 19.01
Day care center	Adequate and safe playground area with a fence four feet high (see Chapter 12.08) 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Motor vehicle repair shop	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired, not exceeding 21 days. 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Off/On-sale alcoholic beverage establishment	12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Telecommunications Tower	12.02, 12.04, 12.06, 12.09, 12.11, 19.01

8.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04).

A. The average front and rear yard setback existing on each street shall apply.

B. There are no side yard, lot area, or maximum height restrictions.

C. See also Adjustment to Yard Regulations (Chapter 13) for specific exceptions.

9

GB: GENERAL BUSINESS DISTRICT

The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space. It is not the intent of this district to encourage the extension or enlargement of strip commercial areas.

9.01 Permitted Uses

Permitted Use	Applicable Standards
Retail trade or service	12.02, 12.04, 12.05, 12.06, 12.11
Office	12.02, 12.04, 12.05, 12.06, 12.11
Personal service	12.02, 12.04, 12.05, 12.06, 12.11
Hotel/motel	12.02, 12.04, 12.05, 12.06, 12.11
Motor vehicle service station/gas dispensing station	12.02, 12.04, 12.05, 12.06, 12.11
Printing Plant	12.02, 12.04, 12.05, 12.06, 12.11
Hospital/Clinic	12.02, 12.04, 12.05, 12.06, 12.11
Public utility facility	12.02, 12.04, 12.05, 12.06, 12.11
Mortuary	12.02, 12.04, 12.05, 12.06, 12.11
Private Club	12.02, 12.04, 12.05, 12.06, 12.11
Churches	All parking lots being 8 feet from all residential properties 12.02, 12.04, 12.05, 12.06, 12.11
Arcade	Located at least 500 feet of an adult use * 12.02, 12.04, 12.05, 12.06, 12.11
Greenhouse/Nursery	12.02, 12.04, 12.05, 12.06, 12.11

Permitted Use	Applicable Standards
Drive-in theater	12.02, 12.04, 12.05, 12.06, 12.11
Car wash	Five storage spaces for each bay beyond off-street parking requirements and the water from the car wash contained on the site 12.02, 12.04, 12.05, 12.06, 12.11
Motor vehicle sales, display, and service	12.02, 12.04, 12.05, 12.06, 12.11
Farm store, feed store	Subject to only accessory storage of fertilizer or farm chemicals on the site 12.02, 12.04, 12.05, 12.06, 12.11
Commercial Recreation Facility	12.02, 12.04, 12.05, 12.06, 12.11
Accessory Use (i.e. garage, shed)	12.03, 12.02 *(see definition)*
Commercial parking lots/parking ramps	12.02, 12.04, 12.06, 12.10, 12.11

* measured from the closest point of the outside walls of both structures

9.02 Conditional Uses

Conditional Use	Applicable Standards
Dwellings	Being above the first floor 12.02, 12.04, 12.06, 12.11, 19.01
Adult Uses	12.02, 12.04, 12.05, 12.06, 12.11, 19.01, & SDCL Ch. 11-12
Electrical Substation	An opaque screen, six feet in height, located at setback lines 12.02, 12.11, 19.01
On/Off-sale alcoholic beverage establishment	12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Wireless Communication Facility on existing support structure	12.09, 12.02, 12.04, 12.06, 12.11, 19.01

Conditional Use	Applicable Standards
Telecommunications Tower	12.09, 12.02, 12.04, 12.06, 12.11, 19.01
Day care center	Adequate and safe playground area with fence four feet high 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Motor vehicle repair shop	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired, not exceeding 21 days. 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Off-premise signs	12.02, 12.07, 19.01
Veterinarian	No outdoor kenneling of dogs within 1,000 feet of a residential area * 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Bus passenger terminal	12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Lumberyard	Subject to screening of all parts and accessories from view 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Farm implement sales, display, and service	Subject to the screening of all outdoor storage from view 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Bus/truck terminal	12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Broadcast tower	Subject to being located at least 300 feet from a residential district * 12.02, 12.09, 12.11, 19.01
Campground	Lot must contain at least 2,000 square feet and supplied with city water and sanitary sewer services; access road on the campground site shall be paved or surfaced in a similar manner to the adjacent public roads, shall be approved by the City, and shall be 14 feet for one way and 20 feet for two way roads 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Kennel	Located 1,000 feet from residential district area * 12.02, 12.04, 12.05, 12.06, 12.11, 19.01

* measured from the closest point of the outside walls of both structures

9.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04).

	Lot Area	**Lot Width**	**Front Yard**	**Side Yard**	**Rear Yard**	**Maximum Height**
All Uses	NA	0 to 50 feet	15 feet see #3	5 feet see #1, 3	5 feet see #2	45 feet
All Uses	NA	51 to 100 feet	20 feet see #3	5 feet see #1, 3	5 feet see #2	45 feet
All Uses	NA	101 or more feet	25 feet see #3	5 feet see #1, 3	5 feet see #2	45 feet

Exceptions

#1 A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.

#2 A rear yard of 20 feet shall be required where a lot is adjacent to or abuts a residential district.

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

#4 See also Adjustment to Yard Regulations (Chapter 13) for other specific exceptions.

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10

LI: LIGHT INDUSTRIAL DISTRICT

This district is intended to provide for a number of light manufacturing, wholesale, warehousing, and service uses in an attractive industrial park-like setting.

10.01 Permitted Uses

Permitted Use	Applicable Standards
Wholesale trade	12.02, 12.04, 12.05, 12.06, 12.11
Light manufacturing	12.02, 12.04, 12.05, 12.06, 12.11
Contractor's shop/storage yard	12.02, 12.04, 12.05, 12.06, 12.11 Subject to screening of all outdoor storage from view
Office	12.02, 12.04, 12.05, 12.06, 12.11
Public utility facility	12.02, 12.04, 12.05, 12.06, 12.11
Frozen food locker	12.02, 12.04, 12.05, 12.06, 12.11
Wireless Communication Facility on existing support structure	12.09, 12.02, 12.04, 12.05, 12.06, 12.11
Printing Plant	12.02, 12.04, 12.05, 12.06, 12.11
Motor vehicle service station	12.02, 12.04, 12.05, 12.06, 12.11
Electrical substation	Opaque screen, six feet in height, located as far back as all setback lines 12.02, 12.11
Warehouse, mini-warehouse	The materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials 12.02, 12.04, 12.05, 12.06, 12.11

Permitted Use	Applicable Standards
Lumberyard	12.02, 12.04, 12.05, 12.06, 12.11
Retail trade or service	Only when it is an accessory use when in conjunction with the primary use of wholesaling or manufacturing 12.02, 12.04, 12.05, 12.06, 12.11
Truck or bus wash	All water from the truck or bus wash being contained on the site 12.02, 12.04, 12.05, 12.06, 12.11
Truck repair, sales, and service	Subject to no unscreened outdoor storage of parts
Farm store or feed store	Only accessory storage of fertilizer or farm chemicals on the site 12.02, 12.04, 12.05, 12.06, 12.11
Farm implement sales, display, and service	12.02, 12.04, 12.05, 12.06, 12.11
Accessory structure (i.e. garage, shed)	12.03, 12.02 *(see definition)*

10.02 Conditional Uses

Conditional Use	Applicable Standards
Dwellings	Being above the first floor 12.02, 12.04, 12.06, 12.11, 19.01
Telecommunications Tower	12.09, 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Off-premise sign	12.02, 12.07, 19.01
Bus/truck terminal	12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Recycling collection or processing facility	Screening of all recyclable material from view 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Automobile storage yard	Screening of the storage yard with fence, berm vegetation or placement on the lot 12.02, 12.04, 12.05, 12.06, 12.11, 19.01

Conditional Use	Applicable Standards
Broadcast tower	Located at least 300 feet from a residential district 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Motor vehicle repair shop	An adequate number of parking spots to store the cars and screen parts and materials from view 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Municipally owned waste water treatment facility	12.02, 12.04, 12.05, 12.06, 12.11, 19.01

10.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	NA	75 feet	25 feet see #4	10 feet see #2, 4	20 feet see #3	45 feet see #1

Exceptions

#1 A conditional use permit will be required for any structure having a maximum height exceeding 45 feet. (See Chapter 19.01)

#2 A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.

#3 A rear yard of 25 feet shall be required where a lot is adjacent to or abuts a residential district.

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

#5 See also Adjustment to Yard Regulations (Chapter 13) for other specific exceptions.

#6 Waste water treatment facilities are exempt from minimum yard or set back requirements.

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HI: HEAVY INDUSTRIAL DISTRICT

This district is intended to provide for general industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, or commercial establishment. All uses in this district shall comply with any state or local regulations regarding noise, emissions, dust, odor, glare, vibration, or heat when applicable.

11.01 Permitted Uses

Permitted Use	Applicable Standards
Wholesale trade	12.02, 12.04, 12.05, 12.06, 12.11
General manufacturing other than those listed below	12.02, 12.04, 12.05, 12.06, 12.11
Farm store or feed store	12.02, 12.04, 12.05, 12.06, 12.11
Contractor's shop/storage yard	12.02, 12.04, 12.05, 12.06, 12.11 Subject to screening of all outdoor storage from view
Public utility facility	12.02, 12.04, 12.05, 12.06, 12.11
Frozen food locker	12.02, 12.04, 12.05, 12.06, 12.11
Wireless Communication Facility on existing support structure	12.02, 12.04, 12.06, 12.09, 12.11
Electrical substation	An opaque screen, six feet in height, must be located as far back as all setback lines 12.02, 12.11
Retailing	Being an accessory use when in conjunction with a primary use of wholesaling or manufacturing 12.02, 12.04, 12.05, 12.06, 12.11

Permitted Use	Applicable Standards
A warehouse or mini-warehouse	Subject to the materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials 12.02, 12.04, 12.05, 12.06, 12.11
Bus and truck wash	All water from the truck or bus wash being contained on the site 12.02, 12.04, 12.05, 12.06, 12.11
Truck repair, sales, and service	No unscreened outdoor storage of parts 12.02, 12.04, 12.05, 12.06, 12.11
Fruit and vegetable canning and processing	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 12.02, 12.04, 12.05, 12.06, 12.11
Refining	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 12.02, 12.04, 12.05, 12.06, 12.11
Motor vehicle repair shop	An adequate number of parking spots to store the cars and screen parts and materials from view 12.02, 12.04, 12.05, 12.06, 12.11
Accessory structure (i.e. garage, shed)	12.03, 12.02 *(see definition)*
Airport	Traffic to and from the airport will not travel on residential streets and the location will not be within ½ mile of a residential district 12.02, 12.04, 12.05, 12.06, 12.11

11.02 Conditional Uses

Conditional Use	Applicable Standards
Bus/truck terminal	12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Telecommunications Tower	12.02, 12.04, 12.06, 12.09, 12.11, 19.01
Off-premise signs	12.02, 12.07, 19.01

Conditional Use	Applicable Standards
Recycling collection facility	Subject to any outdoor storage of recyclable materials must be within an opaque screened area at least six feet in height 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Manufacture of: acid, alcohol, ammonia, asphalt, bleach, cement, chlorine, dyestuffs, explosives, fertilizer, glue, gypsum, lime, oils, paint, plaster or paris, shellac, sizing, turpentine or yeast	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Stockyards/slaughtering of animals	Subject to traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Rendering	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Distillation of products	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Paper manufacturing **Smelting** **Boilerworks**	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Tank farm; petroleum products terminal	Compliance with the city's fire and health code and traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Grain terminal; grain processing	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 12.02, 12.04, 12.05, 12.06, 12.11, 19.01

Conditional Use	Applicable Standards
Salvage yard	Being sited off the main thoroughfares of the City, ½ mile from a residential district and be screened from view; the owner shall agree to control rodents as a condition of the permit 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Manufacture and storage of electric transformers	Chemicals associated with the transformers will be contained in an acceptable manner 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Quarry	Subject to the site being located at least 1,000 feet from commercial or residential properties 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Automobile storage yard	Screening of the storage yard with fence, berm, vegetation or placement on the lot 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Recycling processing facility	Any outdoor storage of recyclable materials must be within an opaque screened area at least six feet in height and all processing operations must be fully enclosed 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Broadcast tower	Being located at least 300 feet from a residential district 12.02, 12.04, 12.05, 12.06, 12.11, 19.01
Solid waste transfer facility	Screening of the storage area with fence, berm, vegetation or placement on the lot Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 12.02, 12.04, 12.05, 12.06, 12.11, 19.01

11.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see Chapter 12.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	NA	NA	25 feet see #4	5 feet see #2, 4	5 feet see #3	55 feet see #1

Exceptions

#1 A conditional use permit will be required for any structure having a maximum height exceeding 55 feet. (See Chapter 19.01)

#2 A side yard of 20 feet shall be required where a lot is adjacent to or abuts a residential district.

#3 A rear yard of 25 feet shall be required where a lot is adjacent to or abuts a residential district.

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

#5 See also Adjustment to Yard Regulations (Chapter 13) for other specific exceptions.

12

ADDITIONAL USE REGULATIONS

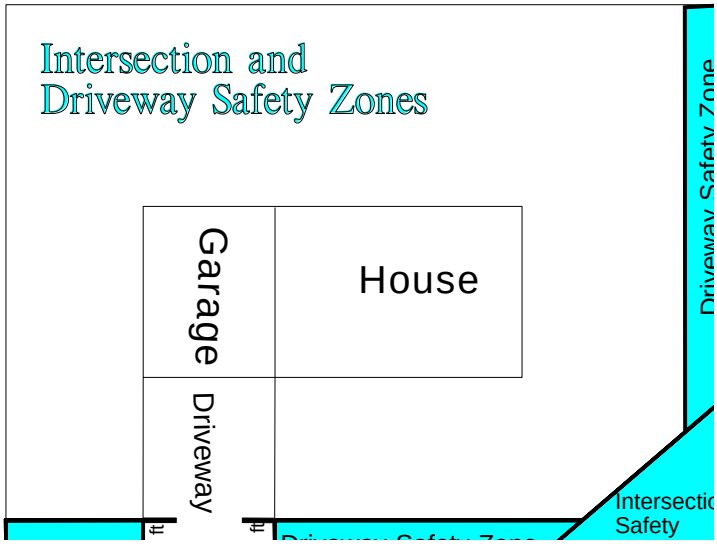
12.01 Reserved

12.02 Visibility at Intersections and Driveways

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

B. Driveway safety zones: No monument style sign or other sign with its face less than ten (10) feet above grade or any fence, wall, shrub, or other obstruction to vision exceeding three feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten feet behind the curb line. (See Figure 1)

Figure 1



12.03 Accessory Buildings and Uses

Accessory buildings and uses shall conform to the following standards:

A. Accessory buildings and uses must be subordinate to principal use *(see definition of accessory use or structure).*

B. A private garage *(see definition of private garage)*. Roofing and siding materials shall be of a type customarily used on site-constructed residence. Exposed fastener corrugated metal or corrugated fiberglass roofing and exposed fastener metal siding is not permitted. Siding and roofing requirements may receive a variance if consent of all adjacent landowners is obtained.

C. Buildings or structures for customary residential storage purposes shall not exceed ten (10) feet in height and shall not exceed two-hundred (200) square feet in gross floor area.

D. No accessory building, structure, or use may be located in a front yard. Accessory buildings, structures or uses may be located within five (5) feet of the side and rear property lines. No accessory building, structure or use shall be located within ten (10) feet of a principal structure.

E. No accessory building, structure or use shall be located on a recorded utility or drainage easement (except for equipment pertaining to said easement).

F. In all cases, accessory structures shall not occupy more than thirty (30) percent of the rear yard.

G. A garage or carport which is entered directly from an alley shall not be closer than twenty (20) feet to the rear property line.

H. Accessory buildings may not be used for dwelling purposes.

I. No accessory building or use shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory buildings shall be used unless the main building on the lot is also being used.

J. Readily moveable sports, recreation, or outdoor cooking equipment.

K. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools, barbeque pits, and similar improvements provided a site plan for such facility is approved.

12.04 Off-Street Parking

A. General Conditions

1. No parking spaces are permitted in the required front or sideyard in any district except for portions of the front yard necessary for hard surfaced driveways or as otherwise provided in this title. Parking spaces in backyards shall be prohibited in the R-1, R-3, and R-4 Zoning Districts. Parking spaces in backyards shall be allowed only by conditional use in the R-2 Zoning District.

2. Driveways shall not exceed thirty-six (36) feet in width. An exception for forty (40) feet driveways shall be allowed for businesses expecting tanker truck traffic.

3. Each parking space shall be directly accessible to an access aisle.

4. Except in conjunction with a legal nonconforming business it is unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any commercial vehicle in a NRC, R-1, R-2, R-3, or R-4 Zoning District, unless the vehicle is parked in connection with the performance of a service. The transferring of refuse from a smaller satellite vehicle to a large packer garbage truck is prohibited.

5. All parking, loading, and maneuvering and drive areas thereto shall be hard surfaced with asphalt or concrete.

6. The parking requirements in this section shall not be applicable to property in the CB Central Business District, except for residential uses which are authorized by a conditional use permit.

B. Required Parking Spaces

In computing the number of required off-street parking spaces the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional spaces result, the parking spaces required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all other districts, see TABLE 1 below:

TABLE 1: Minimum Off-Street Parking & Loading Requirements

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Single-family and two-family dwellings	Two (2) spaces for each dwelling unit

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Multiple-family dwellings	One and one-half (1 ½) spaces for each dwelling unit of one (1) bedroom or less. Two (2) spaces for each dwelling unit of two (2) bedrooms or more.
Rooming and boarding houses, sororities and fraternities	One (1) parking space for each two hundred (200) square feet of floor area (one space per two beds).
Bowling alleys	Four (4) spaces per lane
Church or Temple	One (1) space for each four (4) seats in main setting area
Private club or lodge	One (1) parking space for each three hundred (300) square feet of floor area
High School	Four (4) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
Elementary School	Two (2) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
Eating and Drinking Places	One (1) space for each one hundred (100) square feet of gross floor area or one (1) space for each three (3) seats, whichever is greater.
Hospitals	One (1) space for each bed.
Nursing, convalescent and rest homes	One (1) space for each three (3) beds.
Auditoriums, theaters and places of public assembly	One (1) space for each four (4) seats of design capacity.

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Hotels and Motels	One (1) space for each two (2) rental rooms.
Funeral homes	One (1) space for each four (4) seats in the chapel.
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area.
Medical and dental clinics	One (1) space for each two (2) staff members and full-time employees, plus one (1) space for each six hundred (600) square feet of gross floor area.
Manufactured home parks	Two (2) spaces for each manufactured home lot.
Industrial uses	One (1) space for each two (2) employees on the maximum working shift.
Service establishments	One (1) space for each three hundred (300) square feet of floor area.
Wholesale and distribution establishments	One (1) space for each two (2) employees on the maximum working shift.

All other uses not specified above shall have minimum off-street parking and off-street loading spaces as determined by the City Council.

12.05 Off-Street Loading Requirements

There shall be provided at the time any building is erected or structurally altered, off-street loading spaces for the following uses.

Use	Gross square feet floor area	Number of Off-street loading spaces
Office Buildings	25,000 - 50,000 every additional 75,000	One 14' x 35' space Add one 14' x 35' space

Use	Gross square feet floor area	Number of Off-street loading spaces
Retail, Service and Trade Establishments and Industrial and Wholesale Commercial	5,000 - 20,000 20,000 - 100,000 Every additional 75,000	One 14' x 35' space Two 14' x 35' spaces Add one 14' x 35' space

12.06 On-Premise Signs

Districts	Permitted Signs	Sign Area (maximum)	Sign Height (maximum)
NRC, R-1, R-2, R-3 for specified uses only*	Freestanding	50 square feet	6 feet above grade
R-1, R-2, R-3	Wall	1 square foot	On wall only
CB & GB	Wall, roof, and projecting	2 square feet per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	Wall = on wall only Roof and projecting = 5 feet above roof line
CB & GB	Freestanding	1 square foot per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	GB = 30 feet above grade CB = 18 feet above grade
LI & HI	Freestanding	1 square foot per 3 lineal feet of street frontage with a maximum of 100 sq. ft.	20 feet above grade
LI & HI	Wall, roof, and projecting	1 square foot per 3 lineal feet of street frontage with a maximum of 100 sq. ft.	Wall = on wall only Roof and projecting = 5 feet above roof line

* Specified uses are listed within each zoning district's permitted uses applicable standard tables (Chapters 3.01, 4.01, 5.01, 6.01, and 7.01)

12.07 Off-Premise Signs

Off-premise signs are allowed in the GB, LI, and HI Districts subject to the following regulations:

A. Off-premise signs will be allowed a maximum size of two hundred-eighty eight (288) square feet.

B. Signs will be allowed a maximum height of forty (40) feet; and a minimum height of twelve (12) feet.

C. There will be a minimum setback for the sign face of ten (10) feet and a minimum setback for the sign structure of twenty-two (22) feet.

12.08 Fences

Fences may be erected in required yards, provided they meet or exceed the following requirements:

A. No barbed wire fence shall be erected or maintained.

B. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.

C. For R-1, R-2, R-3, R-4, or CB District - Fences not more than six (6) feet in height may be erected on any part of a lot other than in the required front yard. Fences not more than four (4) feet in height may be located on any part of the lot.

D. For GB, LI, or HI District - Fences not more than eight (8) feet in height may be erected on any part of a lot other than in the required front yard except any yard adjacent to a residential use.

E. No fence shall be erected which violates *12.02 - Visibility at Intersections.*

F. To preserve the neighborhood character of the Residential districts, fences along the perimeter of a front yard shall be of a traditional design and shall not be more than 30 percent solid.

G. The maximum fence height for golf courses, public swimming pools, school track and field areas, parks and ball parks shall be eight (8) feet and for public tennis courts twelve (12) feet on any portion of the lot. Fences associated with these uses shall not be more than 30 percent solid.

H. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.

I. The side of the fence considered being the face (facing as applied to fence post) should face abutting property.

J. In the event a fence is to be constructed on the property line, abutting property owners shall be notified prior to the issuance of a permit.

K. The installation of a fence shall be in a manner as to which access to the City for the purposes of reading or maintaining utility meters is provided.

12.09 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities

Regulations regarding development of telecommunications towers, antenna structures and wireless communications facilities are intended to encourage the development of a competitive wireless communications marketplace while protecting the health, safety, and welfare of the public and maintaining the aesthetic integrity of the community. The regulations cover the placement, construction, and modification of telecommunications facilities.

A. A minimum distance of three hundred (300) feet from the telecommunications tower to any residentially zoned or used property measured from the base of the telecommunications tower to the property line.

B. A minimum distance of one-half (½) mile between telecommunications towers measured from the base of one telecommunications tower to the base of another except when an existing antenna support structure is used to co-locate a wireless communication facility.

C. Building permit shall include documented Federal Communications Commission (FCC) approval prior to permit issuance.

D. The maximum height for telecommunications towers and wireless communications facilities shall not exceed one-hundred (100) feet for single users or two-hundred (200) feet for two or more users. When such structure is located in an airport approach zone, Federal Aviation Administration approval will be required prior to permit issuance.

E. The tower shall be constructed in a manner that will make it inaccessible for unauthorized person to climb.

12.10 Site-Built Single-Family and Multi-Family Dwelling Standards

A. All dwellings, except tiny houses on wheels (THOWs) and manufactured homes, must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.

B. All single-family dwellings, tiny houses, and THOWs shall be oriented on the lot, so that the primary pedestrian entrance faces the street or access easement.

C. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.

D. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted. Roofing material requirements may receive a variance if consent of all adjacent landowners is obtained.

E. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.

F. The exterior of the home must be finished with a minimum of two types of materials. Exposed fastener metal siding is prohibited on residential buildings. Siding material requirements may receive a variance if consent of all adjacent landowners is obtained.

G. No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of this Ordinance, unless said dwelling is constructed upon, installed on, or moved onto a permanent foundation as defined in this Ordinance, excepting THOWs and manufactured homes placed in an approved zoning district. The Authorized Official or his or her designee shall inspect and authorize all dwellings moved into the City of Beresford. For the purposes of this Ordinance, manufactured housing and THOWS shall be allowed only in the R-3 Manufactured Housing Residential District and R-4 Tiny Housing Residential District, respectively.

12.11 Landscaping Standards

It is the desire of the City of Beresford to encourage development which is environmentally sensitive and aesthetically pleasing. To assist in these objectives, a minimum standard for landscaping is prescribed.

A. Within any zoning district, at least ninety (90) percent of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways (see 12.04).

B. Within GB, CB, LI, and HI districts, one tree per fifty (50) feet of lot width is required. No more than twenty (20) percent of the trees may be planted in the street right-of-way. No more than twenty-five (25) percent of the required trees may be deciduous ornamental, evergreen, or coniferous trees.

C. Each existing tree of at least 1 3/4-inch caliper in size shall count toward the tree requirement.

D. The unpaved portion of a dedicated public right-of-way abutting any development shall be landscaped with sod, seed, or other living ground cover. Only deciduous shade trees may be planted in the street right-of-way.

E. Landscape areas must be capable of providing a substantially full expanse of foliage within three years after planting. All deciduous trees shall be 1 ¾ inch caliper and all deciduous ornamental shall be 1 ¼ inch caliper. These requirements are considered to be minimum requirements, and under no circumstances shall these measurements be lowered.

F. Screening: A fence, wall, or shrubbery six (6) feet in height and of a character necessary for adequate screening shall be installed or planted when a parking lot is located adjacent to

residentially used property or across the right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the six (6) foot screening if they have a maximum grade of three feet horizontal to one-foot vertical and sodded or planted with other acceptable living ground cover.

G. Parking Lot Buffer Areas: A setback of at least five (5) feet shall be provided between a parking lot and residentially zoned property.

Exception: If proper screening is provided, the setback may be two (2) feet.

H. Lighting Standards: When property is adjacent to or within one hundred-fifty (150) feet of residentially used or zoned property, the following lighting standards apply:

1. The maximum light level shall be no greater than three (3) foot candles field measured at the property line (ground level).

2. The maximum height of light luminaries shall be twenty-five (25) feet above the ground.

3. Canopy luminaries and other on-site lighting with luminaries greater than two-thousand (2000) lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture.

4. The maximum number of canopy luminaries shall be determined by the following industry standard:

$$\frac{\text{Canopy length (in feet) x canopy width (in feet) x 3}}{\text{Luminaries Lamp wattage}} = \text{Maximum No. of}$$

All other light luminaries shall have a maximum height of thirty-eight (38) feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies.

The following structures or uses are exempt from these lighting standards: public recreation facilities, parks, pedestrian walkways, illuminated flags or statues, airport runways, telecommunication towers, broadcast towers, and historic period lighting.

12.12 Home Occupations

Home occupations are those secondary uses allowed on a premises in conjunction with the following:

A. The use of a dwelling unit for a home occupation shall be clearly incidental and subordinate to its residential use. This standard is met by and limited to one of the following:

1. No more than the lesser of twenty-five (25) percent or five-hundred (500) square feet of the floor area of the dwelling is devoted to the home occupation; or

2. Two hundred (200) square feet of an accessory building is devoted to the home occupation.

B. Not more than one volunteer and/or nonresident employee, partner, or other person engaging in the conduct of the home occupation for pay or profit shall work on the subject property.

C. There can be no evidence other than the nameplate that will indicate from the exterior that the building is being utilized in part for any other purpose other than that of a dwelling. There is used no sign which is attached to the building other than a nameplate. The sign shall not be illuminated or more than one square foot in area.

D. Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling.

E. No merchandise, including samples, can be sold on the premises.

F. The business will generate no more than four (4) visits per day from clients or customers.

G. Materials that are combustible, toxic or consist of any animal or vegetable matter cannot be stored on the premises.

H. Any process which will cause odor, dust, glare, noise, heat, or vibration which would have a negative effect on adjacent properties would not be allowed.

12.13 Manufactured Home Requirements

A. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. Metallic roofing surfaces shall not be permitted.

B. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than twenty (20) feet, as measured across the narrowest portion.

C. A wood or masonry foundation shall form a complete enclosure under the exterior walls.

D. The use of corrugated sheet metal for the exterior walls is prohibited.

E. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards.

F. Each manufactured home shall be properly secured to the ground with either a permanent foundation extending no less than four (4) feet below grade, or with tie downs installed as recommended by the manufacturer, but in no event more than twelve (12) feet apart along the perimeter of the structure. Such tie downs shall extend down no less than four (4) feet below grade.

12.14 Bed and Breakfast Establishments

A. Bed and Breakfast's shall be limited to a residential structure.

B. They shall be in compliance with applicable state laws including South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.

C. Such uses shall be an incidental use with an owner-occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.

D. Off-street parking requirements shall be one space per guest room and shall be in addition to parking requirements for the residence.

E. The length of stay shall not exceed fourteen (14) days during any one hundred-twenty (120) day consecutive period.

F. Meals shall be limited to breakfast which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.

12.15 Tiny Houses and Tiny Houses on Wheels (THOWs)

All tiny houses and THOWs must meet the applicable requirements below:

A. Requirements for all Tiny Houses. All tiny houses shall meet the following standards:

1. The exterior width of a tiny house shall not be less than 8.5 feet or more than 20 feet.

2. Each tiny house shall have a minimum gross floor area of not less than 187 square feet for the first occupant and not less than 50 square feet for each additional occupant.

3. In every tiny house of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 50 square feet of floor space, and every room

occupied for sleeping purposes by more than one occupant shall contain at least 25 square feet of floor space for each occupant thereof.

4. Every habitable room, foyer, bathroom, hall, or corridor shall have a ceiling height of at least 6’8”. If any room has a sloping ceiling, the prescribed ceiling height for the room is required in only 1/2 the area thereof.

5. Each tiny house shall include functional cooking, sleeping, bathroom, and living areas that support normal daily residential activities.

6. Tiny houses shall comply with the City’s Building Code and all other applicable portions of this Ordinance.

7. Tiny houses, except THOWs, shall be properly secured to a permanent foundation.

B. Additional Requirements for THOWs. THOWs shall comply with all the requirements of Section 12.15(A) and the following additional standards:

1. Properly secured to a licensed trailer.

2. Towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection, and cannot move (and was not designed to be moved) under its own power.

3. Each THOW shall be properly secured to the ground with tie downs of sufficient strength and quality as to withstand high winds and other weather events typical of the area.

4. Skirting of the THOW shall be of material which is not highly combustible. Skirting shall be installed and maintained in a workmanlike manner continuous around the perimeter of the structure from the bottom to the ground and be anchored so as to resist tipping and lateral movement in the manner contemplated by its design.

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13

ADJUSTMENTS TO YARD REGULATIONS

13.01 Adjustment to Front Yard Requirements

A front yard may be adjusted to an average of the adjacent structures' front yards where existing adjacent structures have a front yard less than required.

13.02 Adjustment to Side Yard Requirements

Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

13.03 Projection From Buildings

Every part of any required yard shall be open to the sky and unobstructed except:

A. Eaves may project into a front, side, or rear yard;

B. Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features which may project twelve (12) inches;

C. Air conditioners may project into a required side or rear yard setback;

D. Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten feet;

E. An open, unenclosed porch may project into a required front yard for a distance not exceeding ten (10) feet. Balconies and paved terraces may project into a required front yard for a distance not exceeding six (6) feet. An enclosed vestibule containing not more than forty (40) square feet may project into a required front yard for a distance not to exceed four (4) feet; and

F. Terraces, uncovered porches, platforms, decks, and ornamental features which do not extend above the level of ground (first) floor may project into a required yard, provided these projections be distances at least two feet from the adjacent side or rear lot line.

14

NON-CONFORMING USES

14.01 Uses and Structures

A lawful use or structure existing at the time this Ordinance is adopted or amended may continue even though such use does not conform with the zoning district regulations subject to the following provisions:

A. Whenever a nonconforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.

B. Should any nonconforming use or structure be destroyed by any means to the extent of more than fifty (50) percent of its replacement cost, such nonconforming use shall not continue.

C. When a nonconforming use or structure is discontinued for a period of one year, the City Council may adopt, after notice by certified mail to the property owners, an amortization schedule to bring about the gradual elimination of such nonconforming use.

D. Any nonconforming use may be extended throughout any part of a structure which was arranged or designed for such use prior to the adoption of this Ordinance, but shall not be extended outside such structure.

E. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance which do not enlarge, move or structurally alter a nonconforming use.

14.02 Continuation of Non-Standard Uses

Nonstandard uses existing immediately prior to the effective date of this Ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

A. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.

B. Structural alteration of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the zoning district in which they are located.

C. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the zoning district in which they are located.

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ADMINISTRATION AND ENFORCEMENT

15.01 Powers and Duties

The Authorized Official is hereby authorized and directed to enforce all the provisions of this Ordinance and establish rules for its administration. For such purposes, he or she shall have the powers of a law enforcement officer. The Authorized Official shall also have the power to render interpretations. Such interpretations shall be within the intent and purpose of this Ordinance, and be set forth in writing. Additionally, the Authorized Official may appoint or solicit technical advice, inspectors, city officials, and other city employees to assist with administrative duties. The Authorized Official shall be a City employee, with work week, hours of work, and salary to be determined by the City Council or another person approved by the City Council. With approval of the City Council, the Mayor shall appoint the Authorized Official.

15.02 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, the Authorized Official and authorized representatives may enter such building or premises at all reasonable times to inspect. Provided such building or premises is occupied, the Authorized Official or authorized representative shall first present proper credentials and request entry. If such building or premises is unoccupied, the Authorized Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Authorized Official or authorized representative shall have recourse to every remedy provided by law to secure entry.

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

15.03 Stop Order

Whenever any work or use is being done contrary to the provisions of this Ordinance, the Authorized Official may order the work or use stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work or use until authorized by the Authorized Official to proceed with the work or use.

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BUILDING PERMITS AND FEES

16.01 Building Permits

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this Ordinance including use, height, number of occupants, lot area, off-street parking, or yard requirements, shall occur without a Building Permit issued by the Authorized Official, or his or her authorized designee, of the City of Beresford.

A. An Application for Building Permit, available from the Authorized Official of the City of Beresford, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Authorized Official of the City of Beresford for review. To be considered complete, the application form shall be accompanied by the following additional items:

   1. Any required attachments and City fees;

   2. Two copies of plans drawn to scale, showing the dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration;

   3. Any additional information, as requested by the Authorized Official of the City of Beresford, as lawfully may be required to determine conformance with and provide for the enforcement of this Ordinance.

B. A temporary Building Permit may be issued by the Authorized Official of the City of Beresford for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion. The Authorized official of the City of Beresford may attach conditions and safeguards to said temporary permit to protect the safety of the occupants and the public.

C. One copy of the plans shall be returned to the applicant, after the Authorized Official of the City of Beresford has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Authorized Official of the City of Beresford for City records.

D. If the Authorized Official of the City of Beresford determines the proposed action would not be in compliance with the provisions of this Ordinance, a Building Permit may not be issued, except upon completion of one of the following processes established in this Ordinance, as may be applicable to such proposed action. The Authorized Official of the City of Beresford shall inform the applicant when one of the following processes may be applicable:

1. Variance
2. Amendment
3. Conditional Use Permit

Issuance of a Building Permit shall indicate that, in the opinion of the Authorized Official of the City of Beresford, the proposed use and/or alterations of existing use are in compliance with the requirements of these Zoning Regulations. Issuance of a Building Permit shall not be construed as waiving any provisions of this Ordinance. Proposed uses and/or alterations of existing uses which are not in compliance with the requirements of these Zoning Regulations shall not be issued a Building Permit.

16.02 Fees

A schedule of fees, charges, and expenses for permits, change of zone, appeals, and other matters pertaining to this Ordinance shall be established by resolution of the City Council. The current fee schedule shall be available from the Authorized Official of the City of Beresford. All fees shall be the property of the City and shall be paid over to the Authorized official of the City of Beresford for credit to the General Fund of the City which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

16.03 Expiration of a Building Permit

Every building permit issued under the provisions of this chapter shall expire by limitation and become null and void if the work or use authorized by such permit is not commenced within 180 days from the date of such permit, or if the work or use authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall first be obtained to do so, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

Any permittee holding an unexpired permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required for this section for good and satisfactory reasons. The Authorized Official may, except as otherwise provided herein, extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

17

BOARD OF ADJUSTMENT

17.01 Establishment

A Board of Adjustment is hereby established for the City of Beresford, which shall consist of the members of the Planning Commission, pursuant to SDCL 11-4-13.

17.02 Powers and Duties

The Board of Adjustment shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Authorized Official of the City of Beresford in the enforcement of this Ordinance.

B. To hear and decide upon petitions for variances to vary the strict applications of the height, area, setback, yard, parking, or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.

C. To hear and decide only such conditional use permits as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional use permits should be granted; and to grant conditional use permits with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional use permits when not in harmony with the purpose and intent of this Ordinance and the comprehensive plan.

17.03 Appeal Procedure

A. Any person or persons, jointly or severally, aggrieved by any decision of the Authorized Official, may present to that Official, a notice of appeal, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be filed with the Authorized Official of the City of Beresford, who shall transmit to the Board of Adjustment all information and records concerning the appeal. Such notice of appeal shall be presented to the Authorized Official within thirty (30) days after the filing of the decision in the Office of the Authorized Official.

B. The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the Chairman and at such other times as necessary. Each session at which an appeal is to be heard shall be a public meeting. No less than ten (10) days before the public hearing, the Authorized Official of the City of Beresford shall publish notice of the public hearing in a legal newspaper of the City.

C. The public hearing shall be held. The appellant may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Authorized Official; to decide in favor of the appellant on any matter upon which it is required to pass under this Ordinance; to approve a variance request; or to approve a conditional use permit.

17.04 Variances

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

A. An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.

B. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

C. The variance requested is the minimum variance that will alleviate the hardship.

D. Granting of the variance will comply with the general purpose and intent of this Ordinance, and will not be offensive to adjacent areas or to the public welfare.

E. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.

F. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.

G. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Variance. A Variance shall remain valid only as long as the property owner complies with any terms and conditions of the Variance, as attached by the Board of Adjustment.

H. An Application for a Variance, available from the Authorized Official of the City of Beresford, shall be completed by the landowner requesting the Variance. Completed applications shall be returned to the Authorized Official for review. To be considered completed, the application shall contain the following information:

1. Legal description of the land on which such variance is requested, together with local street address;

2. Name and address of each owner of the property;

3. Name, address, phone number and signature of the applicant;

4. Zoning district classification under which the property is regulated at the time of such application;

5. Description of the variance sought from the Zoning Regulations;

6. Be accompanied with a site plan, unless waived by the Authorized Official.

I. The Authorized Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.

J. The Authorized Official shall set the date, time, and place for a public hearing to be held by the Board of Adjustment. The Authorized Official shall notify the landowner by mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Variance no less than seven (7) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Authorized Official shall publish notice of the public hearing in a legal newspaper of the city.

K. The public hearing shall be held. The applicant may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The

concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any variance request.

17.05 Court Review

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

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AMENDMENTS AND CHANGE OF ZONE

18.01 Procedure

Zoning amendments and change of zones are changes to the City of Beresford's Zoning Regulations. Applications for amendment may be submitted by either the City or any owner of land within the City. The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, or repealed, provided however, that no such action may be taken until after public hearings, at which parties in interest and citizens shall have an opportunity to be heard.

The following procedure for requesting an amendment shall be followed:

A. The Authorized Official of the City of Beresford shall review the application for amendment or change of zone and forward the application and his/her comments to the Planning Commission for review.

B. The Authorized Official of the City of Beresford shall set the date, time, and place for a Planning Commission public hearing. The Authorized Official of the City of Beresford shall publish notice of the public hearing in a legal newspaper of the city once not less than ten (10) days prior to the public hearing. At least two (2) signs shall be posted on the property for a continuous period of seven (7) days immediately prior to any public hearing held by the Planning Commission to consider any rezoning application.

C. The public hearing shall be held. Any person may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

D. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.

E. The Authorized Official of the City of Beresford shall set the date, time, and place for a City Council public hearing. The Authorized Official of the City of Beresford shall publish notice of the public hearing in a legal newspaper of the city once not less than ten (10) days prior to the public hearing. At least two (2) signs shall be posted on the property for a continuous period of seven (7) days immediately prior to any public hearing held by the City Council to consider any rezoning application.

F. The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication, and effective date.

G. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect twenty (20) days after publication, unless the referendum shall have been invoked.

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CONDITIONAL USE PERMITS

19.01 Conditional Uses

Any conditional use approved by the Board of Adjustment shall conform to the standards set forth for such uses below. These standards shall be construed to be the minimum requirements for any of the specified conditional uses, and the Board of Adjustment may require additional reasonable stipulations at their discretion. In all cases, the impact of the proposed use on adjacent properties shall be a major consideration.

A. Procedure

The Board of Adjustment may authorize by Conditional Use Permit those uses specifically designated as Conditional Uses in Chapters 3 through 11. The Board of Adjustment shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of such Conditional Use Permit.

B. Application

To obtain a Conditional Use Permit, the applicant shall file an application, therefore, in writing on a form furnished by the Authorized Official or Finance Officer. Every application shall contain the following information:

1. Legal description of the land on which such Conditional Use is requested, together with local street address.
2. Name and address of each owner of the property.
3. Name, address, phone number, and signature of the applicant.
4. Zoning district classification under which the property is regulated at the time of such application.
5. Be accompanied with a site plan, unless waived by the Authorized Official.
6. Any other information concerning the property as may be requested by the Authorized Official or the Board of Adjustment.

C. Fees

Upon the filing of any application for a Conditional Use Permit with the Authorized Official, the

applicant shall pay to the City the appropriate fee as designated by resolution of the City Council.

D. Information on Site Plan

In addition to the following information, plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Chapter and all relevant laws, ordinances, rules, and regulations. The Authorized Official may waive the submission of plans, if he or she finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this Chapter.

1. The address of the property and the legal description.
2. The name of the project and/or business.
3. The scale and north arrow.
4. All existing and proposed buildings or additions.
5. Dimensions of all buildings.
6. Distance from all building lines to the property lines at the closest points.
7. Building height and number of stories.
8. Dimensions of all property lines.
9. Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
10. Screening; show height, location, and type(s) of material to be used.
11. The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
12. Name and location of all adjacent streets, alleys, waterways, and other public places.

Approved plans shall not be changed, modified, or altered without authorization from the Board of Adjustment giving final approval, and all work shall be done in accordance with the approved plans.

E. Review and Public Hearing Procedure

Prior to the approval of a Conditional Use Permit, the Authorized Official shall meet with the applicant to review the application. After review of the application, the Authorized Official shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.

The Authorized Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Authorized Official shall notify the landowner by mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Conditional Use Permit no less than seven (7) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Authorized Official shall publish notice of

the public hearing in a legal newspaper of the city.

The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Authorized Official:

1. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment.

2. Before any Conditional Use Permit shall be granted, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

    a. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

    b. Off-street parking and loading areas where required;

    c. Refuse and service areas, with particular reference to (a) and (b) above;

    d. Utilities, with reference to locations, availability, and compatibility;

    e. Screening and buffering with reference to type, dimensions and character;

    f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;

    g. Required yards and other open space;

    h. General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;

    i. The goals and objectives of the most recently adopted Comprehensive Plan.

The Board of Adjustment shall make a finding that it is either empowered or not empowered by these Zoning Regulations to grant the requested Conditional Use Permit, and that such Conditional Use Permit is either consistent or inconsistent with the intent of these Zoning Regulations and the City's most recently adopted Comprehensive Plan. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any conditional use permit request.

A conditional use permit shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Authorized Official and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use permit may be granted by the Authorized Official, subject to the following conditions:

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

2. The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit;

3. Due to other on-going permitting processes or necessary engineering/planning studies relating to the specific project for the conditional use permit that may impact the one-year schedule for project completion.

A conditional use permit approved in accordance with Chapter 19 shall expire one year after the use discontinues on the premises, or the use is changed to another permitted use in the underlying district.

19.02 Court Review

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

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DEFINITIONS

20.01 Purpose

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

A. Words used in the present tense shall include the past and future.

B. Words used in the singular number shall include the plural number and the plural, the singular.

C. The word “shall” is mandatory and not discretionary.

D. The word “may” is permissive.

E. The words “used” or “occupied” shall include the words “intended,” “designed,” or “arranged to be used or occupied.”

F. The word “lot” shall include the words “plot,” “parcel,” or “tract.”

G. The word “person” shall include a “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as an “individual.”

H. The word “building” shall include the words “structure” and “premises.”

I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

20.02 Definitions

ABUTTING - Abutting shall mean adjacent or contiguous and shall include property separated by an alley. The term “abutting” implies a closer proximity than the term “adjacent.”

ACCESSORY USE OR STRUCTURE - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ACTIVITY - Any application for a permit under this Ordinance or any development or use encompassed within the jurisdiction of this Ordinance.

ADULT ARCADE - Any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.

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

1. Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.

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

ADULT CABARET - Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or seminudity.

2. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

ADULT MOTION PICTURE THEATER - A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.

ADULT ORIENTED BUSINESS - Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.

ADULT SERVICE - Dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.

ADULT THEATER - A theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

AGRICULTURE - The production, keeping, or maintenance, for sale, lease or personal use, of plants and land useful to man, including but not limited to: forages sod crops; grains and seed crops; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AIRPORT - A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including Heliports.

ALLEY - An alley is a public right-of-way which affords only a secondary means of access to abutting property.

ANTENNA - Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.

AQUIFER - A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

ARCADE - A building or structure, open to the public, which contains coin operated games and similar entertainment and amusement devices, as the primary use or with five (5) or more games as an accessory use.

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

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

AWNING/CANOPY - A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BED AND BREAKFAST ESTABLISHMENT - A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

BOARD OF ADJUSTMENT - Public and quasi judicial agency charged with duty to hear and determine zoning appeals.

BOARDINGHOUSE - A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

BROADCAST TOWER - Shall mean a structure, not including offices or studio, for the transmission of radio or television broadcast communications.

BUILDABLE AREA - The three-dimensional space within which a building is permitted to be built on a lot and which is defined by maximum height regulations and yard setback regulations.

BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground or attached to the ground with a fixed location on the ground.

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

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

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

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

BUILDING, RESIDENTIAL - A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings;
2. Single-family attached dwellings;
3. Multiple-family dwellings (including apartment hotels);
4. Lodging houses; and
5. Fraternity and sorority houses.

BUS PASSENGER TERMINAL - A place where the transfer of people between modes of transportation takes place.

BUS/TRUCK TERMINAL - An area and building where buses, trucks, and cargo is stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of vehicles is performed.

BUS/TRUCK WASH - Any building or portions thereof used for washing buses and/or trucks.

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

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

CERTIFICATE OF OCCUPANCY - A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

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

CHURCH - A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CITY - Means City of Beresford, South Dakota.

CITY COUNCIL - Means Board of City Council Members, Beresford, South Dakota.

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

CLUB - Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

COMMERCIAL PARKING LOT/FACILITY - An approved open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored for a fee.

COMMISSION - Means City Planning Commission of Beresford, South Dakota.

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

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

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

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

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

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

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

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

DAY CARE, FAMILY - Care is done in a family home, and the number of persons cared for is limited to a maximum of six (6) adults or six (6) children under fourteen. Included in that count are the providers' own children six (6) years and under. See (Home Occupation).

DAY CARE, GROUP - Is normally in a family home. The number of persons cared for is seven (7) to twelve (12) adults or children under the age of fourteen including the provider's own children six (6) years and under.

DENSITY - The number of families, individuals, dwelling units, or housing structures per unit of land.

DEVELOPMENT - The carrying out of any construction, reconstruction, alteration of surface, structure, change or land use or intensity of use, and including but not limited to the deposit of refuse, solid or liquid waste, any mining or drilling operation, or work relating to the creation of a road, street, or parking area.

DISTILLATION OF PRODUCTS - A building or premises used for the purification and concentration of a substance by volatilization or evaporation and subsequent condensation.

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

DRIVE-UP SERVICE WINDOW/DEVICE - An establishment which accommodates the patron's motor vehicles, from which the occupants may obtain or receive a service or obtain a product through a service window or automated device.

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses.

DWELLING, ATTACHED - A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, MULTIPLE-FAMILY - A building, or portion thereof, containing three (3) or more dwelling units.

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

DWELLING, SINGLE FAMILY FARM - Single family dwelling located on a farm which is used or intended for use by the farm's owner or relative of the owner or a person employed thereon.

DWELLING, TOWNHOUSE - One of a group or row of two or more single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

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

ELECTRICAL SUBSTATION - A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

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

FAMILY - One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three adults who are unrelated by blood or law. In addition to the persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title:

1. A person residing with the family for the purpose of adoption;

2. Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency;

3. Not more than four persons eighteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency;

4. Any persons living with the family at the direction of a court; and

5. Twenty four hour supervised living of persons with physical or mental disabilities, but not including group homes for drug and alcohol rehabilitation or halfway houses for persons adjudicated by a court. Such residential facilities shall be licensed by the State of South Dakota and proof of such licensing shall be required prior to zoning certificate approval.

FARM - A parcel of land used for agricultural purposes, with a minimum of 10 acres in size.

FARM IMPLEMENT DEALER - The use of any building or land area for the display and sale of new and used farm implements, including any warranty repair work and other repair service conducted as an accessory use.

FARMSTEAD - The area of a farm in which the out buildings sit and is normally protected by a grove(s) and not used for crops or grazing.

FARM STORE/FEED STORE - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agri-chemicals.

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

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

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

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

FRUIT/VEGETABLE CANNING AND PROCESSING - A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

GARAGE, PRIVATE - An accessory building or part of a main building used primarily for storage and which shall not be used for commercial purposes. The maximum cumulative allowable size of all garages or carports shall be 1,500 square feet or thirty (30) percent of the size of the gross floor area of the dwelling unit(s), whichever is greater. In no event shall the size of the building footprint of the garage(s) or carport(s) exceed the footprint of the dwelling unit(s). Unattached garage(s) or carport(s) shall be limited to maximum sidewalls of ten (10) feet. The garage(s) or carport(s) shall be used only by persons residing on the premises. Any garage not meeting these requirements shall be allowed only as a conditional use pursuant to Section 18.01.

GARDEN CENTER - Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

GAS DISPENSING STATION - Any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories, or testing may be done. Gasoline pumps and islands shall be located more than 12 feet from the nearest property line.

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

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

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

GRAIN TERMINAL - A facility for the storage of agricultural grains.

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

GROUP HOME - A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

GROUNDWATER - Subsurface water that occurs in soils and geologic formations that are fully saturated.

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

HOME OCCUPATION - A home occupation is any occupation carried on by a member of the immediate family residing on the premises, in accordance with Section 11.12 of these zoning regulations.

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

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

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

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

LANDSCAPED AREA/LIVING GROUND COVER - An area that is permanently devoted and maintained in blue grass/ creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

LIGHT MANUFACTURING - Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

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

LOT - A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, which may include one (1) main building together with its accessory buildings, the open spaces

and parking spaces required by this Ordinance, and having its principal frontage upon a street or upon an officially approved place.

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

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

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

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

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

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

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

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

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

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

MANUFACTURE OF: ACID, ALCOHOL, AMMONIA, ASPHALT, BLEACH, CEMENT, CHLORINE, DYESTUFFS, EXPLOSIVES, FERTILIZER, GLUE, GYPSUM, LIME, OILS, PLASTER OF PARIS, SHELLAC, SIZING, TURPENTINE OR YEAST, ETC. – Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

MANUFACTURED HOME - A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section

shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.

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

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

MASSAGE ESTABLISHMENT - An establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision does not apply to:

1. Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.

2. Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.

3. Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.

4. Physical therapists licensed pursuant to SDCL Ch. 36-10.

5. Athletic trainers licensed pursuant to SDCL Ch. 36-29.

6. Massage therapists licensed pursuant to SDCL Ch. 36-35.

7. Chiropractors licensed pursuant to SDCL Ch. 36-5.

MORTUARY - A place for the storage of human bodies prior to their burial or cremation.

MOTEL - A motel is an establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. See (Hotel/Motel).

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

MOTOR VEHICLE REPAIR - Any building or premises involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

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

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

MOTOR VEHICLE, PERSONAL/PASSENGER - Any car, pickup-truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal/passenger travel and has not been externally altered with features not customary to personal usage.

MOTOR VEHICLE, RECREATIONAL - Any vehicle which is adapted, designed, and equipped to facilitate leisure time activities including but not limited to the following: ATVs, boats, motor bikes, snowmobiles, along with trailers to haul said vehicles; RVs and travel trailers.

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

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

NEIGHBORHOOD UTILITY FACILITY - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings,

facilities and above ground structures that exceed 120 square feet of area) necessary for conducting a service by a government or a public utility.

NONCONFORMING USE - A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this title, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

NUDE MODEL STUDIO - A place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other considerations. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:

1. A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.

2. A Student must enroll at least three days in advance of a class in order to participate.

3. No more than one nude or seminude model is on the premises at any time.

NUDE, NUDITY OR STATE OF NUDITY - Any of the following:

1. The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.

2. A state of dress that fails to opaquely cover a human anus, genitals, or a female breast below a point immediately above the top of the areola.

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See (Greenhouse).

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

OFFICE BUILDING - A building designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations. Broadcast stations, offices, and studios shall be considered to be office buildings; broadcast towers as defined in this title shall not be so considered.

OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

ON-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

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

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

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

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

PERMITTED USES - Any permissive or conditional uses allowed in a zoning district subject to the restrictions applicable to that zoning district.

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

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

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

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

PRINCIPAL USE - The primary or predominant use or building of any lot.

PRINTING PLANT - A commercial printing operation which makes reproductions involving the use of a printing press and the making of photographic plates.

PRIVATE CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

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

PROPERTY LINE - See (Lot Line).

PUBLIC UTILITY FACILITIES - See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings, structures, and facilities that exceed 120 square feet in area are allowable.

QUARRY - A surface excavation used for the removal of rock, stone, sand, gravel, and fill dirt for sale or use off-site and includes sifting, crushing, and washing and bagging.

RECREATION FACILITY, COMMERCIAL - A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive and operated as a business and open to the public for a fee.

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

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

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

RESIDENCE - A permanent dwelling place.

RETAIL SERVICES AND TRADE - Establishments engaged in selling products, goods, or merchandise to the general public for personal or household consumption; and establishments

engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services but does not include on-sale or off-sale alcoholic beverage establishments.

RESTAURANT - An establishment where food and drink is prepared, served, and consumed primarily within the principal use.

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

ROOMING/BOARDING HOUSE - See (Boarding House).

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

SEMINUDE - A state of dress in which clothing covers no more than the genitals, pubic region, and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

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

SHALLOW/SURFICIAL AQUIFER - An aquifer in which the permeable media (sand and gravel) starts near the land surface immediately below the topsoil. The shallow aquifer is further defined as an aquifer within fifty (50) feet or less below the land surface within fifteen (15) feet or less of continuous overlying, extremely low permeability material, such as clay, till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this Ordinance; or, the aquifer is greater than fifty (50) feet but less than one hundred (100) feet below the land surface with thirty (30) feet or less of continuous overlying low to extremely low permeability geological material that may be a combination of weathered and unweathered till, shale, or till and shale.

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include signs not exceeding 12 square feet for advertising the sale or lease of real estate, national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.

SIGN AREA - The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the

necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

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

SIGN (OFF PREMISE) - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN (ON PREMISE) - A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

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

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

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

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

SPECIFIED ANATOMICAL AREAS - Any of the following:

1. A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.

2. Male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES - Any of the following:

1. Human genitals in a state of sexual stimulation or arousal.

2. Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.

3. Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.

4. Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.

STORY - 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 underfloor space is more than six (6) feet above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

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

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

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

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

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

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

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

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

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

TELECOMMUNICATIONS TOWER HEIGHT - The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.

TELECOMMUNICATIONS TOWER SITE - The telecommunications tower site shall be the lot of record for which the telecommunications tower is located.

TINY HOUSE – A principal residential detached dwelling smaller in size and scope than a traditional single-family dwelling.

TRAVEL TRAILER - Means any of the following:

1. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.

2. Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

3. Motor-Home. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as any integral part of a self-propelled vehicle.

4. Camping Trailer. A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

TREE, REQUIRED - A tree which is required by this Ordinance and meets or exceeds the minimum specifications according to tree type.

USE, ACCESSORY - See (Accessory Building or Use).

USE, PERMITTED - A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in which such use is located.

USE, PRINCIPAL - A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use includes off-premise advertising.

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

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

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

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

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

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

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

YARD LINE - See (Building Line).

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

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

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

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

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