

BROOKINGS COUNTY ORDINANCE NO. 2018-03

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF ORDINANCE 2015-03

WHEREAS, BROOKINGS COUNTY previously adopted Ordinance 2015-03, which re-adopted the 1997 Revised Zoning Ordinance in accordance with Chapter 11-2;

WHEREAS, the Brookings County, South Dakota, Board of County Commissioners deems it necessary, for the purpose of promoting the health, safety, and the general welfare of the County, to amend Ordinance 2015-03 by repealing the following Articles: Article 12.00 – Commercial/Industrial Districts.; Article 13.00 – Lake/Park Districts. ; Article 14 – Natural Resources Districts.; Article 15.00 – Flood Damage Prevention.; Article 16.00 – Aquifer Protection.; and replacing said Articles with Article IV, a copy of which is attached hereto, District Requirements-Chapter 4.02. “CI” – Commercial / Industrial Districts.; Chapter 4.03. – “LP” – Lake Park Districts.; Chapter 4.04. – Natural Resource Districts.; Chapter 4.05. – Flood Damage Prevention.; Chapter 4.06. – Aquifer Protection.; and the repealing of conflicting ordinances.

THEREFORE, BE IT ORDAINED BY BROOKINGS COUNTY, SOUTH DAKOTA, that Ordinance 2015-03 is hereby amended repealing the following Articles: Article 12.00 – Commercial/Industrial Districts.; Article 13.00 – Lake/Park District.; Article 14 – Natural Resources Districts.; Article 15.00 – Flood Damage Prevention.; Article 16.00 – Aquifer Protection.; and replacing said Articles with Article IV, a copy of which is attached hereto, District Requirements-Chapter 4.02. “CI” - Commercial / Industrial Districts.; Chapter 4.03. - “LP” - Lake Park Districts.; Chapter 4.04. - Natural Resource Districts.; Chapter 4.05. - Flood Damage Prevention.; Chapter 4.06. - Aquifer Protection.; and the repealing of conflicting ordinances.

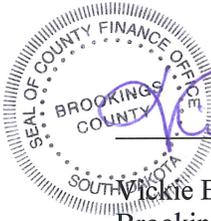
Adopted this 15th day of May, 2018.

BROOKINGS COUNTY:



Lee Ann Pierce,
Chairperson, Brookings County
Board of County Commissioners

ATTEST:



Vickie Buseth
Brookings County Finance Officer

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Second Reading: May 15, 2018

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Effective Date: June 21, 2018

COMMERCIAL/ INDUSTRIAL DISTRICTS

CHAPTER 4.02 – “CI” - COMMERCIAL/ INDUSTRIAL DISTRICTS

Purpose

The "CI" District is intended for commercial and industrial uses which due to their size and nature require highway access to a county, state, or federal road.

Section 4.02.01 - Permitted Use

Permitted uses in the "A" Agricultural District except residential dwellings, are listed below:

1. Agricultural activities and farm related buildings, including Class D but excluding Classes A, B, and C Concentrated Animal Feeding Operations;
2. Single family residences including manufactured, mobile and modular homes;
3. Fisheries services and game propagation areas;
4. Orchards, tree farms, truck gardening, nurseries and greenhouses;
5. Public parks and recreation areas;
6. Institution farms;
7. Agricultural research facility;
8. Signs;
9. Accessory uses and structures.

Section 4.02.02 - Conditional Uses

1. Implement sales and service;
2. Truck terminals and freight warehouses;
3. Seed sales and grain storage, fertilizer and chemical storage and sales;
4. Highway and street maintenance shops;
5. Welding and machine shops;
6. Gas stations, oil and liquid propane stations including bulk stations;
7. Public utility and public service structure including substations, gas regulator stations, community equipment buildings, pumping stations, and reservoirs;
8. Livestock sales;
9. Contractors' shops and yards;

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10. Wholesale distributing companies;
11. Restaurants, bar/taverns;
12. Motels;
13. Wireless telecommunication towers and facilities provided they meet requirements of Chapter 5.36
14. Convenience store/service stations.
15. Freestanding sign area greater than one hundred sixty (160) square feet.
16. Light manufacturing.
17. Agricultural product processing facilities including but not be limited to ethanol Plants and corn/soybean processing.
18. Conditional Uses in the "A" Agricultural District except residential dwellings, and as listed below:
 - a. Commercial public entertainment enterprises not normally accommodated in commercial areas, including but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races. See Chapter 523;
 - b. Contractors' shops and yards. See Chapter 5.39;
 - c. Commercial Game lodge; non-residential use. See Chapter 5.25;
 - d. Golf course, golf driving range;
 - e. Holiday tree farms. See Section 5.19.03.5;
 - f. Junk/salvage/recycling yards. See Chapter 5.26;
 - g. Livestock sale barns. See Chapter 5.22
 - h. Private campground; See Chapter 5.38
 - i. Private Wind Energy Conversion System (PWECS) provided they meet the requirements of Chapter 5.29;
 - j. Rock crushers; and concrete and asphalt mixing plants. See Chapter 5.31;
 - k. Seasonal retail stands, including garden produce and fireworks stands;
 - l. Sewage (domestic) treatment plants. See Chapter 5.33;
 - m. Shooting ranges. See Chapter 5.34;
 - n. Stables, dog/cat kennels;

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- o. Veterinary clinics;
- p. Wineries. See Section 5.19.03.4;
- q. Wireless telecommunication towers See Chapter 5.36.

19. Aviation facilities; including airstrips.

20. Commercial Storage units.

Section 4.02.03 - Highway Access

All property in the "CI" District must have access to a County, State, or Federal road.

Section 4.02.04 - Area Regulations

Minimum lot area, maximum building height, and minimum yard requirements shall be regulated in accordance with the following tables:

1.

	Minimum Lot Area	Maximum Height (A)	Maximum Lot Coverage
Permitted Uses	3 Acres	50'	25%
Other Conditional Uses	To be determined by the Board of Adjustment		

A. *[Exception to maximum height]* The Zoning Official may allow heights to exceed fifty (50) feet for the following:

- i. Agricultural bulk storage structures and associated loading/unloading equipment.
- ii. Chimneys, smokestacks, and cooling towers.
- iii. Wireless Telecommunications Towers and Facilities.
- iv. Wind Energy Systems, Private Wind Energy Systems.
- v. Others as determined by the Board of Adjustment.

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2.

	Minimum Front Yard (A)	Minimum Rear Yard	Minimum Side Yard	Minimum Side or Rear Yard Adjacent to Residential Use or "A" – Agricultural Zoning District
Permitted Uses	100'	50'	50'	100'
Signs	1'	10'	10'	10'
Conditional Uses	To be determined by the Board of Adjustment			

A. In no case shall an accessory building be located or extend into the front yard.

3. Access. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit.

4. Lot Area. Lot area shall be determined by need, setback, side yards, rear yards, parking requirements, freight handling requirements, building site and future expansion; however, in no case shall a lot have less than three (3) acres.

An applicant for a Conditional Use shall provide a proposed site plan which can be reviewed by the County Zoning Commission. For commercial and industrial uses, buildings shall occupy no more than twenty-five (25) percent of the lot.

5. Storage. All outdoor storage within five hundred (500) feet of a residential dwelling must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair. The County may require asphalt or concrete surfacing of parking lots.

6. Parking. Each lot shall provide off-street parking. Number of parking spaces shall be determined by the Board of Adjustment. Trees used for landscaping within a paved parking lot are exempt from minimum front, rear and side yard requirements for shelterbelts.

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Section 4.02.05 - Performance Standards

1. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. Air Pollution. State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. Odor. The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. Glare, Heat or Radiation. Every use shall be so operated that there is no emission of heat, glare or radiation visible or discernable beyond the property line.
5. Vibration. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. Sewage and Liquid Wastes. No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
7. Fire Hazard. All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the County Commissioners
8. Physical Appearance. All operations shall be carried on within an enclosed building except that new or operable equipment may be displayed or stored in the open and waste materials stored in enclosed containers not readily visible from the street.

CHAPTER 4.03. "LP" LAKE/ PARK DISTRICTS.

Purpose

The Lake-Park District was established to provide for orderly residential and recreational development together with certain public facilities, customary home occupations, and certain recreation oriented commercial establishments along lake shores and to preserve the natural environment, including shorelines and lakes, from destructive land uses.

Area Contained in "LP" District

All land, unless otherwise zoned in the Brookings County Official Zoning Map adopted May 29, 2007, as amended October 1, 2013, and as amended thereafter, within one thousand (1,000) feet of the normal high water line of a designated lake shall be zoned Lake-Park District and usage shall conform to the regulations for this District.

Section 4.03.01. Permitted Uses.

1. New and used single-family residences, manufactured or modular homes **subject to the provisions of Chapter 5.09.**
2. Public parks and recreation areas;
3. Agriculture and horticulture uses excluding Concentrated Animal Feeding Operations (CAFO);
4. Accessory buildings of new construction, with a maximum of 14' side-walls and 2,000 square feet or less and which meet all required setbacks are a permitted use. New or used accessory buildings of 120 square feet or less are a permitted use and are not required to have a building permit. (Ord. 2006-02, 3-28-2006, Ord. 2015-03, 12-29-2015).

Section 4.03.02. Conditional Uses.

1. Twin homes;
2. Private parks and camp grounds;
3. Resorts; **subject to the provisions of Chapter 5.40;**
4. Restaurants;
5. Boat houses adjacent to lake shore;
6. Accessory buildings with a side-wall greater than fourteen (14) feet or more than 2,000 square feet and used accessory buildings greater than 120 square feet.
7. Golf courses/country clubs;
8. Marinas;

9. Boat Repair/shops;
10. Grocery, convenience and sporting goods stores;
11. Gas stations;
12. Riding Stables;
13. Skating Rinks;
14. Essential Public Services;
15. Public utility and public service structure including transmission lines, substations, gas regulator stations, pipelines, community equipment buildings, pumping stations, and reservoirs;
16. Laundromats;
17. Outdoor music events;
18. Commercial storage units;
19. Bars/Taverns;
20. Firework sales; subject to SDCL Chapter 37-32.
21. Home occupations; **subject to the provisions of Chapter 5.16;**
22. Bed and Breakfasts / Vacation Rental By Owner (VRBO);
23. Extended home occupations; **subject to the provisions of Chapter 5.24.**

Section 4.03.03. Density, Area and Yard Regulations.

- 1. Minimum lot area, maximum lot coverage/density, minimum frontage, and minimum yard requirements for the Lake Park District shall be regulated in accordance with the Table 4.03.03.1:**

Table 4.03.03.1

Land Uses		Maximum Per Unit Density (Sq. Ft.)	Minimum Lot Area (Sq. Ft.)	Minimum Shoreline Frontage	Minimum Road Frontage	Minimum Front Yard	Minimum Rear Yard or Lake Front	Minimum Side Yard
Lots Adjacent to Lake	Single Family Dwelling	20,000'	20,000'	75'	75'	25' (A)	75' (B)	8'
	Other Allowable Uses	20,000'	20,000'	75'	75'	25' (A)	75' (B)	8'
Lots Not Adjacent to Lake	Single Family Dwelling	20,000'	20,000'	NA	75'	25' (A)	25'	8'
	Other Allowable Uses	20,000'	20,000'		75'	25' (A)	25'	8'

(A) Side of lot facing road right-of-way or access easement.

(B) Measured from wall of the structure to the estimated high water elevation.

1. A corner lot will have two front yards. In the case of a lot abutting more than one street, the owner may choose any street lot line as the front lot line with consent of the Zoning Official, based on the effects of such choice on development of the lot itself or on adjacent properties. The rear lot line is opposite and most distant the front lot line.
2. For lakes or ponds: No structure except piers and docks shall be placed at an elevation such that the lowest floor, including the basement, is less than three (3) feet above the highest known water level. In those instances where sufficient data on known high water level is not available, the elevation line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be required to stabilize before construction begins.
3. **All residential and commercial uses requiring sanitary sewer/septic services shall be connected to a wastewater treatment system in accordance with the following:**
 - a. **Residential and commercial uses on lots containing less than twenty thousand (20,000) square feet shall be connected to a sealed holding tank or an approved sanitary sewer district. Existing septic tanks and drain fields as of (date of the ordinance) on lots with an area of less than twenty thousand (20,000) square feet are considered nonconforming uses and may only be replaced by connection to an approved sanitary sewer district or a sealed holding tank.**

- b. Septic systems are required to be installed for cabins and homes on all lots containing twenty thousand (20,000) square feet or more, unless the property is connected to an approved sanitary sewer district.
 - c. All septic systems are required to be installed by a South Dakota Department of Environment and Natural Resources (SD DENR) certified installer following South Dakota Administrative Rules Chapter 74:53.
4. No residence shall exceed two and one-half (2 ½) stories or 35 feet from the peak of the residence to the highest ground next to the structure. Exceptions include the following:
 - a. Agricultural buildings.
 - b. Chimneys, smokestacks, cooling towers.
 - c. Radio and TV towers.
 - d. Water tanks.
 5. Solar panels are allowed as an accessory use subject to the following conditions:
 - a. Solar panels must meet height and setback requirements for the Lake Park District.
 - b. The energy generated shall be used exclusively on the site where the energy is generated.
 6. Landowners shall comply with South Dakota Codified Law 38-22 Weed and Pest Control and Brookings County Noxious Weed and Pest List for noxious weeds and vegetation.

Section 4.03.04. Shoreline and Bottomland Alterations.

These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shore land.

1. Removal of Shore Cover:
 - a. Natural shrubbery shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
 - b. The removal of natural shrubbery or trees and the replacement of such vegetation within 35 feet inland from all points from the high water mark shall require the granting of a permit by the Zoning Official. An application to alter lakeshore or bottom lands which contains a plan showing the work to be accomplished shall be filed at the Zoning Office. The plan shall be approved South Dakota Game, Fish and Parks and/or the Army Corps of Engineers as required by state or federal law prior to the Zoning Officer issuing the permit. The granting of the permit shall be conditioned upon the applicant providing the Zoning officer, within eighteen (18)

months after the date of granting the permit, satisfactory evidence of compliance with the plan or pay for the cost incurred by the County in replacing the property in compliance. In the event the County pays the cost of putting the property in compliance, a civil lien shall be placed against the property in favor of the County for the amount expended by the County. Nothing in this provision shall prevent the County from pursuing all legal remedies available to enforce this provision. It is solely within the discretion of the County whether to pay the costs of placing the property in compliance.

Section 4.03.05. Filling, Grading, Lagooning and Dredging.

1. Filling, grading, lagooning or dredging are prohibited unless the applicant completes and files with the Zoning Office an application for filling, grading, lagooning or dredging which contains a plan showing the work to be accomplished. The plan shall be approved South Dakota Game, Fish and Parks and/or the Army Corps of Engineers as required by state or federal law prior to the Zoning Officer issuing the permit. The granting of such permit shall be conditioned upon the applicant providing the Zoning officer, within eighteen (18) months after the date of granting such permit, satisfactory evidence of compliance with the plan or pay for the cost incurred by the County in replacing the property in compliance. In the event the County pays the cost of putting the property in compliance, a civil lien shall be placed against the property in favor of the County for the amount expended by the County. Nothing in this provision shall prevent the County from pursuing all legal remedies available to enforce this provision. It is solely within the discretion of the County whether to pay the costs of placing the property in compliance.
2. A permit shall be required for any filling or grading.
3. Building permits are required for all retaining walls or structures.

Chapter 4.04 - NATURAL RESOURCE DISTRICTS

Section 4.04. "NR" Natural Resource District

Section 4.04.01 - Purpose

The purpose of the Natural Resource District is to provide for the retaining of natural vegetation of a particular area, to preserve the natural environment and resources from destructive land uses and to protect wildlife habitat. Such an area may include, but is not limited to, flood plains of rivers, streams, and lakes, abandoned quarries, certain wetlands, natural prairies, and historical sites.

Area Contained in "NR" District

1. All lands totally or partially owned by the state or federal governments as wildlife production or public shooting areas.
2. All land, unless otherwise zoned, within 300-feet from original government surveyed meandered line of water bodies, included in Appendix #/A.
3. Excludes all rivers and tributaries.
4. Any other areas specifically zoned natural resources by the County.

Section 4.04.02 - Permitted Uses

1. Wildlife production areas, wildlife habitat, wetlands, plant and pollinator protection areas and riparian or vegetated buffer zones.
2. Game refuges;
3. Historic sites and/or monuments;
4. Designated natural prairies;
5. Public hunting and fishing access areas;
6. Agriculture/Horticulture uses and livestock grazing.
7. Scientific observation, survey, or research to promote environmental integrity and that does not compromise the natural resource area.

Section 4.04.03 - Uses Permitted by Conditional Use if Deemed Not Detrimental to District

1. Transportation and utility easements and rights-of-way.
2. Utility substations;
3. Public parks and/or playgrounds;

CHAPTER 4.05 - FLOOD DAMAGE PREVENTION.

Flood Damage Prevention Regulations

Section 4.05.01. - Statutory Authorization, Findings of Fact, Purpose and Objectives.

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapter 11-2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Commissioners of Brookings County, South Dakota, ordain as follows:

2. Findings of Fact

- a. The flood hazard areas of Brookings County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare
- b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

3. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;

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- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

Section 4.05.02. - Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations include methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 4.05.03 - Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

1. Area of Special Flood Hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

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2. Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.
3. Corner Lot: A corner lot will have two front yards. In the case of a lot abutting more than one street, the owner may choose any street lot line as the front lot line with consent of the Zoning Official, based on the effects of such choice on development of the lot itself or on adjacent properties. The rear lot line is opposite and most distant the front lot line.th two front yards.
4. Development means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
5. Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters and/or
 - b. The unusual and rapid accumulation of runoff of surface waters from any source.
6. Flood Insurance Rate Map (FIRM) The official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. (Ord 2008-07, 6-24-2008)
7. Flood Insurance Study (FIS) A Flood Insurance Study (FIS) is a book that contains information regarding flooding in a community and is developed in conjunction with the Flood Insurance Rate Map (FIRM). (Ord 2008-07, 6-24-2008)
8. Manufactured Home is a building, used exclusively for human habitation, which is constructed in a manufacturing facility after June 15, 1976, in compliance with the National Manufactured Home Construction and Safety Standards Act and transportable in one or more sections to a building site.
9. Mobile Home is a building, used exclusively for human habitation, constructed in a manufacturing facility prior to June 15, 1976, the effective date of the National Manufactured Home Construction and Safety Standards Act, which is transported on a permanent chassis to a building site. A mobile home shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A travel trailer or other form of recreational vehicle shall not be construed to be a mobile home.

10. Modular Home is a building, used exclusively for human habitation, constructed off site and in compliance with the applicable local or state building code and which is transported on a temporary chassis to a permanent building site.
11. Structure means a walled and roofed building or manufactured home that is principally above ground.
12. Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
 - a. Before the improvement or repair is started, or
 - b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this designation, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
13. Zoning Complaints. All zoning complaints must be in writing and signed.

Section 4.05.04. General Provisions

1. Lands to Which This Ordinance Applies.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Brookings County.

2. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), dated July 16, 2008, is adopted by reference and declared to be part of these regulations. The FIRM is on file at the County Zoning Office, Brookings, SD. (Ord. 2008-07, 6-24-2008)

3. Compliance

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of these regulations and other applicable regulations.

4. Abrogation and Greater Restrictions

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation.

In the interpretation of these regulations, all provisions shall be:

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the governing body; and
- c. Deemed neither to limit nor repeal any other powers granted under State statutes.

6. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Brookings County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

7. Severability

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

Section 4.05.05. Administration

1. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 4.05.04.2. Application for a development permit shall be made on forms furnished by the Zoning officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the forgoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been flood proofed;
- c. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 4.05.06.2.b; and
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Zoning Officer

The Zoning officer is hereby appointed to administer and implement these regulations by granting or denying development permit applications in accordance with their provisions.

3. Duties and Responsibilities of the Zoning Officer

Duties of the Zoning Officer shall include but not be limited to:

- a. Permit Review
 - i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.
 - ii. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

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- iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 1. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.
 2. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
 3. If the proposed development is a building, then the provisions of these regulations shall apply.

b. Uses of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 4.05.04.2, Basis for Establishing the Areas of Special Flood Hazard, the Zoning officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 4.05.06.2, Specific Standards.

c. Information to be Obtained and Maintained.

- i. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- ii. For all new or substantially improved flood proofed structures:
 1. Verify and record the Actual elevation (in relation to mean sea level) to which the structure has been flood proofed.
 2. Maintain the flood proofing certification required in Section 4.05.05.1.c.
- iii. Maintain for public inspection all records pertaining to the provisions of these regulations.

d. Alteration of Watercourses

- i. Notify adjacent communities and Emergency and Disaster Services, Pierre, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, there appears to be a conflict between a mapped boundary and actual field conditions).

Section 4.05.06. Provisions for Flood Hazard Reduction

1. General Standards

In all areas of special flood hazards, the following standards are required:

a. Anchoring

- i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- ii. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 2. Frame ties must be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured

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homes less than 50 feet long requiring four additional ties per side;

3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
4. Any additions to the manufactured home must be similarly anchored.

b. Construction Materials and Methods

- i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- iii. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. Utilities

- i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals

- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
- ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

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- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).
- e. Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.05.05.3.b, Use of Other Base Flood Data, the following standards are require.

a. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one foot above the base flood elevation.

i. Below-Grade Residential Crawlspace Construction

New construction and substantial improvement of any below-grade crawlspace shall:

1. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;
2. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;
3. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;

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4. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
5. Be constructed with materials and utility equipment resistant to flood damage;
6. Be constructed using methods and practices that minimize flood damage;
7. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
8. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 2004-01, 9-28-2004).

b. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- i. Must be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 4.05.05.3.c.ii.

Section 4.05.07. Penalties for Noncompliance

1. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The maximum penalty for violation of this Zoning Ordinance shall be five hundred dollars (\$500.00) or thirty (30) days in the County Jail or both. In addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification shall constitute a separate offense. All fines for violation shall be paid to the Finance Office and shall be credited to the General Fund of the County.

The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

2. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Brookings County in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation of these regulations, and it is the duty of the State's Attorney to institute such action.

CHAPTER 4.06. AQUIFER PROTECTION.

Aquifer Protection Overlay District.

Section 4.06.01. Purpose:

1. The Brookings County Planning Commission and Board of County Commissioners recognize (1) that residents of Brookings County rely exclusively on ground water for a safe drinking water supply and (2) that certain land uses in Brookings County can contaminate ground water particularly in shallow/surficial aquifers.
2. The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow/surficial aquifers of Brookings County. It is the intent to accomplish this, as much as possible, by public education and securing public cooperation.
3. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations. It is not the intent to grandfather in existing land uses which pose a serious threat to public health through potential contamination of public water supply well head areas.

Section 4.06.02. Definitions.

1. Aquifer. A geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.
2. Best Management Practices (BMP). Means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, waste or manure stockpiles, or drainage from raw material storage.
3. Buffer Zone. An area outside and adjacent to Zone A that has been delineated to account for possible changes in the boundaries of Zone A due to effects of irrigation pumping.
4. Chemigation. The process of applying agricultural chemicals (fertilizer or pesticides) using an irrigation system by injecting the chemicals into the water.
5. Class V Injection Well. A conduit through which potentially contaminated but generally non-hazardous fluids can move from the land surface to the subsurface; the types of primary concern are (1) commercial/industrial facility septic tanks when they are used to dispose of more than domestic wastewater and (2) dry wells for repair/service bay drains at facilities servicing motorized vehicles/ equipment.
6. Concentrated Animal Feeding Operation See Chapter 5.22
7. Contamination. The process of making impure, unclean, inferior, or unfit for use by introduction of undesirable elements.

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8. Contingency Plans. Detailed plans for control, re-containment, recovery and clean up of hazardous materials released during fires, equipment failures, leaks and spills or other similar events.
9. Corner Lot is a lot with two front yards.
10. Development. The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.
11. Facility. Something that is built, installed or established for a particular purpose.
12. Grey Water. All domestic wastewater except toilet discharge water.
13. Hazardous Materials. A material which is defined in one or more of the following categories.
 - a. Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture or which has low flash points. Examples: white phosphorous and gasoline.
 - b. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: Polychlorinated Biphenyls (PCBs) in some waste oils.
 - c. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.
 - d. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
 - e. Moderately Toxic: A gas, liquid or solid, which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.
 - f. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.
14. Manure Storage Area. An area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons.
15. Leaks and Spills. Any unplanned or improper discharge of a potential contaminant including any discharge of a hazardous material.
16. Pasture. A field that provides continuous forage to animals without depletion of forage matter.
17. Primary Containment Facility. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

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18. Secondary Containment Facility. A second tank, catchments pit, pipe or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Monitoring and recovery are required.
19. Shallow/Surficial Aquifer. An aquifer in which the permeable media (sand and gravel) starts at the land surface or immediately below the soil profile. The main shallow/surficial aquifer in Brookings County is the Big Sioux Aquifer.
20. Ten Year Time of Travel Distance. The distance that ground water will travel in ten years. This distance is a function of the permeability and slope of the aquifer.
21. Zone of Contribution. The entire area around a well or well field that is recharging or contributing water to the well or well field.
22. Zoning Complaints. All zoning complaints must be in writing and signed.

Section 4.06.03. Establishment and Delineation of Aquifer Protection Overlay Zones.

1. Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on published maps entitled "Well head Protection Area Maps, Brookings County Shallow Aquifer Map" dated May, 1988, with pages 5 and 9 amended in January of 1999, as drawn by Banner Associates. Said maps are hereby adopted by reference as part of this ordinance as if the maps were fully described herein. In addition to the before mentioned maps the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey Aquifer Materials Map 19 dated 2004, for areas designated 0-50 feet on map, will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed. (Ord. 2006-02, 3-28-2006).
2. The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and United States Geological Survey. This map only serves as a general guide to the location of these aquifers. County studies and other information shall be used, where available, to better determine more precise aquifer locations. Aquifer boundaries are drawn at the discretion of geologists and hydrologists based on best available information. Therefore, actual site specific aquifer boundaries may differ from the attached map and other information. Hydrogeologic information is necessary to verify the location of a concentrated animal feeding operation in relation to an underlying shallow aquifer.

Section 4.06.04. Zone A - Aquifer Critical Impact Zone.

Zone A, the well head protection area, is the zone of contribution mapped around all public water supply wells or well fields and includes land upgradient to the ten year time of travel boundary plus contributing drainage areas, as delineated on the official copy of published maps representing sloping, adjacent lands not underlain by the aquifer from which surface water can flow directly onto Zone A.

Section 4.06.04.01. Permitted uses in Zone A:

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agriculture;
 - a. Application of manure is permitted with an approved nutrient management plan.
2. Horticulture.
3. Park, greenways or publicly owned recreational areas.
4. Necessary public utilities/facilities designed so as to prevent contamination of ground water.
5. Best Management Practices are encouraged, particularly in Zone A.

Section 4.06.04.02. Conditional Uses in Zone A:

The following uses are permitted only under the terms of a Conditional Use and must conform to provisions of the underlying zoning district and meet the Performance Standards outlined for the Aquifer Protection Overlay Zones.

1. Expansion of existing conforming and non-conforming uses to the extent allowed by the underlying district. The County Zoning Commission shall not grant approval unless it finds such expansion does not pose greater potential contamination to ground water than the existing use.
2. Sediment basins will be allowed on a case-by-case basis and must be constructed to current NRCS standards and specifications.
3. Expansion of existing Class "D" Concentrated Animal Feeding Operations (CAFOs) to 499 animal units, that were in continuous existence at the time of adoption of Brookings County Zoning Ordinance May 1976.

Section 4.06.04.03. Prohibited Uses in Zone A:

The following uses are expressly prohibited in Zone A:

1. New Class A, B, C and D Concentrated Animal Feeding Operations after adoption of this ordinance, May, 1976
2. Existing Concentrated Animal Feeding Operations in continuous operation since the adoption of the Brookings County Zoning Ordinance May, 1976 will not be able to expand beyond a total of 500 animal units (Class D).
3. Earthen storage basins and lagoons.
4. Disposal of or stockpiling of solid waste.

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5. Post-harvest application of nitrogen fertilizer prior to October 15th except for the spreading of manure.
6. Storage of road salt or disposal of snow containing deicing chemicals.
7. Processing and storage of Polychlorinated Biphenyls (PCB) containing oils;
8. Car washes;
9. Auto service, repair or painting facilities and junk or salvage yards;
10. Disposal of radioactive waste;
11. Graveyards or animal burial sites;
12. Open burning and detonation sites;
13. All other facilities involving the collection, handling, manufacture, use storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality;
14. Land spreading or dumping of petroleum-contaminated soil, waste oil or industrial wastes.
15. Class V injection wells.
16. All uses not permitted or not permitted as Conditional Uses in Zone A.
17. Transmission facilities designated to transport liquid hydrocarbons or liquid hydrocarbon products.

Section 4.06.05. Zone B - Aquifer Secondary Impact Zones.

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

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

Section 4.06.05.01. Permitted Uses in Zone B:

1. All uses permitted in the underlying zoning districts provided that they can meet the Performance standards as outlined for the Aquifer Protection Overlay Zones.
2. Best Management Practices are encouraged, particularly in Zone B.

Section 4.06.05.02. Conditional Uses in Zone B:

1. New Class D and accumulative expansion of 250 animal units of existing Class C and D CAFO's in continuous operation since the adoption of Brookings County Zoning Ordinance on May 1976 not to exceed 750 total animal units. (Class C).
2. Sediment basins will be allowed on a case-by-case basis and must be constructed to current NRCS standards and specifications.
3. All Conditional Uses allowed in underlying districts may be approved by the County Zoning Commission provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Section 4.06.05.03. Prohibited Use in Zone B:

The following use is expressly prohibited in Zone B:

1. New and expansion of Class A, B and C Concentrated Animal Feeding Operations.
2. Earthen storage basins and lagoons.
3. Post-harvest application of nitrogen fertilizer prior to October 15th except for the spreading of manure.
4. Land spreading or dumping of petroleum-contaminated soil, waste oil or industrial wastes.
5. Class V injection wells.
6. Transmission facilities designated to transport liquid hydrocarbons or liquid hydrocarbon products.

Section 4.06.06. Performance Standards:

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

1. New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the State Department of Environment and Natural Resources.
2. Any facility involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, except for spreading of manure, in excess of 1000 pounds and/or 100 gallons which has the potential to contaminate ground water must have a secondary containment system which are easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectable sumps. Pipes installed to carry diluted chemicals for chemigation are exempted and storage of liquid fertilizer for chemigation is allowed as long as a secondary containment system is used. Secondary containment for tanks used for chemigation must be in place by April 1, 1991.

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3. Open liquid waste ponds containing materials referred to in (2) above will not be permitted without a secondary containment system except for community wastewater lagoons. Agricultural waste storage ponds are permitted but must be constructed in conformance with Natural Resource Conservation Service South Dakota Engineering Standard, Waste Storage Ponds 425. (See Appendix 1).
4. Storage of petroleum products in quantities exceeding fifty-five (55) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks must have a secondary containment system noted in (2) above where it is deemed necessary by the County Zoning office.
5. Discharge of industrial process water on site is prohibited without County Zoning office approval. County approval contingent on state permit from South Dakota Department Environment and Natural Resources.
6. Auto service, repair or painting facilities and junk or salvage yards in Zone B shall meet all State and Federal standards for storage, handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.
7. An acceptable contingency plan for all permitted facilities must be prepared and on file in the County Zoning Office for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire and other natural catastrophes or equipment failure occur:
 - a. For flood control, all underground facilities shall include but not be limited to a monitoring system and secondary standpipe above the 100-year flood control level, for monitoring and recovery. For above ground facilities, an impervious dike, above the 100 year flood level and capable of containing 100 percent of the largest volume of storage, will be provided with an overflow recovery catchments area (sump).
 - b. For fire control, plans shall include but not be limited to a safe firefighting procedure, a fire retardant system and provide for dealing safely with both health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are overhead and buried electrical lines, pipes, other buried objects and other hazardous liquids, chemicals or open flames in the immediate vicinity.
 - c. For equipment failures, plans shall include but not be limited to:

Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring and an overfill protection system. Above ground level, liquid and leaching monitoring of primary containment systems, their replacement or repair and cleanup and/or repair of the impervious surface.
 - d. For any other natural or man-caused disasters occurring, the owner and/or operator shall report all incidents involving liquid or chemical material in an endangerment of the health and /or safety of either disaster personnel and/or the public in general.

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Agricultural operations are exempted from this section unless they store chemicals that are on the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) extremely hazardous substance list over the threshold planning quantity at any one time. (See Appendix 3)

The County Zoning Office, DENR and public water supply officials shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate ground water.

8. Since it is known that improperly abandoned wells can become a direct conduit for contamination of ground water by surface water, all abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:04:67-70.

Section 4.06.07. Grant of Permit, Alteration of Use.

A permit will be granted when the County Zoning officer has examined the application and determined that the proposed use, activity or development meets the performance standards.

In securing a use permit, the owner/developer must make future improvements which may become necessary to prevent contamination of shallow/surficial aquifers and the owner/developer must allow County personnel to inspect any improvements to verify they meet the performance standards.

Whenever any person has obtained a permit and thereafter desires alteration of the authorized use, such persons shall apply for a new permit. The owner may appeal a County Zoning officer's decision to modify or deny a requested permit to the County Planning Commission/County Zoning Commission.

Section 4.06.08. Exceptions.

1. Any lawful use in existence on the effective date of this ordinance shall be permitted to continue provided it can be shown such use does not threaten public health and safety by potential contamination of water in the shallow/surficial aquifers. Any proposed additions, changes or improvements will require a permit.
2. Storage of liquids and chemicals used in agricultural operations during spring/fall planting and crop cultivation are exempt from the requirements of this ordinance April 1 to October 1. Tanks used for chemigation are not exempt. Best Management Practices are encouraged, particularly in Zone A.
3. Storage of liquid or dry fertilizer in amounts equal to or less than 1,000 pounds or 100 gallons, stored indoors by each farm operator is exempt from the requirements of this ordinance.

Section 4.06.09. Limitation of County Liability.

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Nothing in this ordinance shall be construed to imply that Brookings County, by issuing a permit, has accepted any of an owner/developer's liability if a permitted development contaminates water in shallow/surficial aquifers.

Section 4.06.10. Underlying Zones.

Underlying zoning restrictions apply along with restrictions set forth in the Aquifer Protection Overlay District.

Section 4.06.11. Saving Clause.

Should any section provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.