

APPENDIX C

JOINT JURISDICTION AREA ZONING *

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ARTICLE I. TITLE AND AUTHORITY

Section 100. Title.

AN ORDINANCE TITLED THE ZONING ORDINANCE OF THE JOINT JURISDICTION AREA SURROUNDING THE CITY OF BROOKINGS, SOUTH DAKOTA--1980, to regulate and restrict the location and density of buildings or other structures in the use of land, for the purpose of protecting the public health, safety and general welfare pursuant to the authority of chapter 11-6 of the SDCL 1967 as amended.

Section 110. Short title.

This ordinance shall be known and may be cited and referred to as the Brookings Joint Jurisdiction Ordinance, 1980, to the same effect as if the full title were stated. The map herein referred to, identified by the title "Joint Jurisdiction Zoning Map, Brookings, South Dakota," dated March 1, 1980, as revised and all explanatory matter thereon are hereby adopted and made a part of this ordinance.

*Editor's note-Appendix C contains the Brookings City and County zoning ordinance of the joint jurisdictional area surrounding the City of Brookings, that being City of Brookings Ord. 14-80, enacted June 24, 1980. Changes made by the editor, other than stylistic changes such as changes in capitalization and indention, and the correction of obvious spelling errors, are indicated by the use of brackets []. Subsequent amendments to Ord. 14-80 are indicated by a history note at the end of the affected section or sections. The absence of such a note indicates that such section derives unchanged from Ord. 14-80.

Section 115. Joint jurisdiction zoning area.

The area of joint jurisdiction shall be those sections or portions of sections identified according to the revised Joint Jurisdiction Zoning Map, Brookings, South Dakota, on file in the city engineer's office. (Ord. 17-89, I, 10-10-89)

Section 120. Purpose.

The zoning regulations and districts herein set forth are made in accordance with a comprehensive plan for the general welfare of the area surrounding the community. They are designed to lessen congestion in the streets; secure safety from fire, panic and other dangers; promote health, morals and the general welfare; provide adequate light and air; prevent the overcrowding of land or buildings and avoid undue concentration of population while also avoiding sporadic development of existing agricultural land. They are made with reasonable consideration, among other things, to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of property and encouraging the most appropriate use of land throughout the area surrounding the City of Brookings.

ARTICLE II. DEFINITIONS

Section 200. Word definitions.

For the purpose of interpreting this ordinance, certain words, terms and expressions are herein defined. Words used in the present tense shall include the future. The singular number shall include the plural and the plural, the singular. The word "shall" is mandatory.

. 1 *Accessory building.* A detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use. Such a building does not include dwelling units or living quarters.

. 2 *Accessory use.* A use subordinate to the main use of land or a building on a lot and customarily incidental thereto.

. 3 *Alley.* Minor ways which are used primarily for vehicular service access to the back side of properties otherwise abutting on a street.

. 4 *Alterations structural.* Any change in the load-bearing members of a building, such as bearing walls, partitions, columns, beams or girders. The enlargement of the size or height of a building shall be construed to be a structural alteration.

.4.3 *Amateur communication tower.* A tower, guy wires and the antenna which transmits amateur radio or citizen band signals. (Ord. 17-89, 10-10-89)

.5 *Apartment.* A room or suite of rooms with toilet and culinary accommodations used or designated for use as a residence by a family or any two (2) or more people located in a building containing three (3) or more such rooms or suites. (Ord. 17-89, II, 10-10-89)

.6 *Auto laundry.* A building or portion thereof, where automobiles are washed commercially, or equipment is rented for the same purpose.

.7 *Automobile sales room.* A building or portion thereof, where automobiles and vehicles are sold by a franchised dealer either with or without storage, parts sales and repair facilities providing all such repair activities are enclosed within a structure.

.8 *Basement.* A story having part, but not more than one-half (1/2) of its height above grade. A basement is counted as a story for the purpose of height regulation if subdivided and used for dwelling purposes other than by a janitor employed on the premises.

.9 *Boardinghouse.* A building or place, other than a fraternity or sorority house, where lodging and/or boarding is provided by prearrangement for definite periods of time for compensation for three (3) or more persons, no more than eight (8) persons and is not open to transient guests.

.10 *Building.* Any enclosed space for human use or activities, whether stationary or moveable. When any portion of a building is completely separated from any other portion thereof by a division wall without openings or by a firewall, then each such portion shall be deemed to be a separate building.

a. *Principal building.* A building, including covered porches, carports and attached garages, in which is conducted the principal use of the lot on which it is situated. In any residence district the main dwelling shall be deemed to be the principal building on the lot on which the same is situated.

b. *Unit group of buildings.* A unit group of buildings shall be defined as buildings of similar use, character and/or architecture. In any district containing a unit group of buildings, each principal building will be required to have adequate lot space to meet the requirements of a single building on a single lot.

.11 *Building, height of.* The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point

of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

.12 *Building line.* An imaginary line parallel to the front lot line which is a distance from the front lot line equal to the depth of the front yard required for the district in which such lot is located. On a corner lot, an imaginary line parallel to the side lot line adjacent to the street which is a distance from the side lot line equal to the depth of the front yard required for the district in which such lot is located and extends the full length of the lot. (Ord. 17-89, 10-10-89)

.13 *Carport.* A form of private garage providing space for housing or storage of one (1) or more automobiles and enclosed on not more than two (2) sides by walls. The dimensions determining the overall size of the carport shall be measured from the extreme edge of any part of the building.

.14 *Centerline.* The true centerline of a street which has been fully dedicated to its required width. Where all of the required width of public right-of-way has not been dedicated or such public right-of-way exists in an offset of angular manner, the zoning officer shall determine the alignment of the centerline.

.15 *Clinic.* An establishment where patients are not lodged overnight but are admitted for examination and treatment by physicians or dentists practicing medicine together.

.16 *Club or lodge.* A nonprofit association, except a sorority or fraternity, which owns, leases or hires a building, or portion thereof, for use restricted to only dues-paying members and guests. It shall be permissible to serve food on such premises providing adequate dining room and kitchen facilities are available and are operated in compliance with the state and local laws.

.161 *Condominium.* An estate in real property consisting of an undivided interest in portions of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building or industrial and commercial building on such real property, such as, but not restricted to, an apartment, office or store. A condominium may include in addition a separate interest in other portions of real property. Such estate may, with respect to the duration of its enjoyment, be either an estate of inheritance or perpetual estate, an estate for life, or an estate for years.

.165 *Day-care facility.* A facility meeting state standards for space requirements in which thirteen (13) or more children are cared for during parts of a day for compensation. This includes the provider's own children who are under the age of six (6) years and the children from more than one (1) unrelated family. (Ord. 17-89, II, 10-10-89)

.168 *Driveway, residential*. A hard-surfaced or clearly defined access from the property line to a garage, a side yard or rear yard. If not hard-surfaced, the edges of the driveway must be physically defined in the front yard area. (Ord. 17-89, 10-10-89)

.17 *Dwelling*. A "dwelling" is a building used exclusively for permanent residential occupancy, or portion thereof, including one-family dwellings, multiple-family dwellings, mobile homes on individual lots, but not including a mobile home designed or used primarily for residential occupancy in a mobile home court, motel, hotel, boarding, lodging or rooming house, tents, cottage, camps, or other structures designed or used primarily for transient residents.

- a. *Dwelling, single-family*. A detached building designed or used exclusively for occupancy by one (1) family.
- b. *Dwelling, two-family*. A building designed or used exclusively for occupancy by two (2) families.
- c. *Dwelling, multifamily, condominium and townhouse*. A building or portion thereof containing three (3) or more dwelling units.
- d. *Dwelling unit*. A "dwelling unit" consists of one (1) or more rooms in a dwelling which are arranged, designed, used or intended for use as living quarters for one (1) family. This includes a permanent kitchen and bathroom facilities.

.18 *Family or household*. One (1) or more persons related by blood, marriage or adoption occupying a dwelling unit as an individual housekeeping entity; and as such may include no more than two (2) other persons not related by blood, marriage or adoption.

.19 *Farm*. An area which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operation of such an area for one or more uses, including dairy farms with the necessary uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities, and provided further, that farming does not include large-scale commercial feeding of livestock.

.20 *Feedlot*. A commercial venture under corporate partnership, or individual ownership, involving the assemblage of livestock for the express purpose of preparation for market in the least time possible, and typified by rapid turnover of live-

stock; the absence of dwelling unit or structure for housing livestock, and association with other uses normally occurring on a farm.

.21 *Floor area.* The total number of square feet of floor space as determined by the outside dimensions of the building, not including space in basements; however, if the basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking requirements.

.22 *Fraternity or sorority.* A building, other than a hotel that is arranged, intended or designed to be occupied as a residence for a group of more than five (5) members, there residing, and having a charter granted by the State of South Dakota.

.23 *Garage, private.* An enclosed space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space there for more than two (2) licensed cars is rented to a nonresident of the premises.

.24 *Garage, repair.* Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, greasing, washing, servicing, parts sales and adjusting or equipping of automobiles or other motorized equipment.

.25 *Service stations.* Any area of land, including structures thereon, that is used or designed to be used primarily for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, dry cleaning or otherwise cleaning or servicing such motor vehicles.

.26 *Grade* The average level of the finished surface of the ground adjacent to the exterior walls of the building, except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be at grade.

.27 *Home occupation.* An occupation or a profession which:

- a. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and
- b. Is carried on by a member of the family residing in the dwelling unit for residential purposes, and
- c. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and

d. Which conforms to the following additional conditions:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto and shall not occupy more than fifty (50) per cent of the floor area of one story;
2. No more than one (1) person outside the family shall be employed in the home occupation;
3. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, except as noted in section 730;
4. No noise, vibration, smoke, dust, odors, heat or glare shall be produced which is detrimental to the residential character of the zoning district in which it is located.

.28 Hotel. A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals, and in which there are more than twenty-five (25) sleeping rooms usually occupied independently.

.29 Junkyard. An area of land with or without buildings used for or occupied by a deposit, collection, or the storage, outside of a completely enclosed building, of used and/or discarded materials such as wastepaper, rags, scrap metal, used building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

.30 Kennel. Any lot or premises on which four (4) or more domestic animals or pets at least four (4) months of age are harbored.

.31 Lot. A piece, plot or parcel of land, or assemblage of contiguous parcels of land, as established by survey, plat or deed, occupied or to be occupied by a building, or a unit group of buildings, and accessory buildings thereto, together with such open spaces as are required under this ordinance, and having its frontage on a dedicated public street.

- a. *Lot area.* The area of land enclosed with the boundaries of the lot.
- b. *Lot corner.* Lots conforming to the requirements of the following specified conditions shall be considered as corner lots:

1. A lot fronting on two (2) intersecting streets which form an interior angle of one hundred and thirty-five (135) degrees or less, and which lot has a frontage not less than twenty-five (25) feet on each of such streets.
 2. A lot located at the angle in a street where the interior angle formed by the intersection of the street lines is one hundred and thirty-five (135) degrees or less and which lot has a frontage of not less than twenty-five (25) feet on each leg of such angle.
- c. *Lot line.* A boundary line of a lot.
- d. *Lot line, front.* Shall be that boundary of a lot, which is along an existing or dedicated public street, or where no public street exists, is along a public way. On a corner lot, the shorter street frontage shall be considered the front lot line.
- e. *Lot line, rear.* Shall be that boundary of a lot, which is most distant from and is or is most nearly parallel to, the front lot line.
- f. *Lot line, side.* Shall be any boundary of a lot, which is not a front or a rear lot line.
- g. *Lot, width of.* "Lot width" shall be the straight line distance between points on opposite side lot lines at the building line.

.32 *Mobile home.* Any occupied vehicle used or so constructed as to permit it being used as a conveyance on the public streets and highways and duly licensed as such, and shall include self-propelled or non self-propelled vehicles so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one (1) or more persons.

- a. *Mobile home park.* Any premises where four (4) or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public parking space for four (4) or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use as a part of the equipment of such mobile home park.

.33 *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.

.34 Nonconforming use. Any building or land lawfully occupied by a use at the time of passage of this ordinance or amendment thereto which does not conform after the passage of this ordinance or amendment thereto, with the use regulation of the district in which it is situated.

.35 Nursing home. A home for the aged or infirm, in which three (3) or more persons not of the immediate family are received, kept or provided with food and shelter or care, for compensation; but not including hospitals, clinics or similar institutions.

.36 Parking space. An off-street space accessible and available for the parking of one (1) motor vehicle and having an area of not less than two hundred (200) square feet, together with a driveway connecting the parking space with a street, road or alley, and permitting ingress and egress of an automobile.

.37 Public right-of-way. All streets, roadways, sidewalks, alleys and other areas reserved for present or future use by the public, as a matter of right for the purpose of vehicular or pedestrian travel or utility installation.

.38 Sign. Any structure or part thereof or device attached thereto or painted or represented thereon, which shall display or include any letter, work, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" includes the word "bill board" but does not include the flag, pennant or insignia or authentic reproduction thereof of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive movement or event.

.39 Story. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, the open space between the floor and the ceiling next above it.

.40 Street. The traveled portion of a public right-of-way, which affords the principal means of access to abutting property.

.41 Structure. Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six (6) feet in height, poles, lines, cables or other transmission or distribution facilities of public utilities.

.41.5 Townhouse. One (1) of a group or row of two (2) or more single-family dwellings designed and built as a single structure in which the individual townhouse may or may not be owned separately. (Ord. 17-89 § II, 10-10-89)

.42 *Use, principal.* The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied and maintained.

.43 *Yard.* The space on a lot extending along a lot line between such "lot line" and a principal building or buildings, or non-building use occupying such lot. Yard measurement shall be taken from the building wall to the lot line.

- a. *Front yard.* A yard extending the full width of the lot and situated between either the front lot line and the building line or the front lot line and the principal building, whichever is greater. The depth of the front yard shall be measured between either the principal building and the front lot line or the building line and the front lot line, whichever is greater. Covered porches and garages, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. (Ord. 17-89, 10-10-89)
- b. *Rear yard.* A yard extending the full width of the lot and situated between the rear line of the principal building and the rear lot line. Accessory buildings or non-building uses may be located within the rear yard only.
- c. *Side yard.* A yard situated between the principal building and the side lot line and extending from the front yard to the rear yard. On a corner lot, the side yard adjacent to the street shall be designated a front yard. (Ord. 17-89, 10-10-89)

.44 *Group home.* A group home is a supervised living or counseling arrangement in a family home context for developmentally disabled, retarded or handicapped persons. It provides for the care of children or adults.

Section 210. General regulations.

211. Application of regulations.

.1 *Conformity of buildings and land.* No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected raised, moved, placed, reconstructed, extended, enlarged or altered, excepting in conformity with the regulations herein specified for the district, as shown on the zoning map, in which it is located.

.2 *Conformity of buildings.* No building, structure, or premises shall be erected, altered or used so as to produce greater heights, smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.

.3 *Conformity of open spaces.* No yard, court or open space or part thereof, shall be included as a part of the yard, court or open space, similarly required for any other building, structure or dwelling under this ordinance.

212. Continuance of nonconforming uses and structures. The continuance of nonconforming uses of structures shall be subject to the following limitations:

.1 *Continuation.* Any lawful use of building or land, existing at the effective date of the ordinance may be continued, although such use does not conform to the provisions of this ordinance.

.2 *Extension.* A nonconforming use shall be allowed one (1) twenty-five (25) per cent expansion of the building. Said expansion shall not exceed twenty- five (25) per cent of the floor area. The extension of a nonconforming use to any portion of a nonconforming building, which existed prior to the effective date of this ordinance, shall not be deemed the extension of a nonconforming use.

.3 *Restoration.* No building damaged by fire or other causes to the extent of more than fifty (50) per cent of its value shall be repaired or rebuilt, except in conformity with the regulations of this ordinance.

.4 *Abandonment.* Whenever a nonconforming use has been discontinued for a period of one (1) year such use shall not thereafter be re-established and any subsequent use shall be in conformity with the provisions of this ordinance.

.5 *Substitution of nonconforming uses.* No nonconforming use may be changed to any other nonconforming use, unless the Board of Adjustment shall find that the proposed nonconforming use is not more detrimental to the district than the existing nonconforming use of the property. The Board of Adjustment may specify such appropriate conditions and safeguards as may be required in connection with such change.

.6 *Repairs and maintenance.* Ordinary repairs and maintenance of a structure containing a nonconforming use shall be permitted.

.7 *Change in use.* A nonconforming use shall not be changed except to a conforming or to another use of a higher or more restrictive classification as provided by this ordinance. A change of nonconforming use in the I-1, I-1R, I-2 zone district to a use, which is residential, shall not be permitted.

.8 *Amortization of nonconforming signs.* Signs and billboards which exist off the site of the principal use on the date of the adoption of this ordinance shall be made to conform within a period of three (3) years from said date.

.9 *Amortization of nonconforming use of open land.* All nonconforming uses of open land not involving a substantial investment as permanent buildings, shall be torn down, altered or otherwise made to conform within three (3) years from the date of adoption of this ordinance.

213. Obstruction to vision at street intersections prohibited.

.1 On any corner lot at a street intersection which has some form of traffic controls, in all districts, there shall be no obstructions to traffic visibility within the clear sight triangle which is formed by the intersection of the centerline of two (2) intersecting streets and a straight line joining the two (2) said center lines at points fifty-five (55) distant from their point of intersection.

.2 On any corner lot at a street intersection which does not have any form of traffic control, in all districts, there shall be no obstructions to traffic visibility within the clear sight triangle which is formed by the intersection of the center line of two (2) intersecting streets and a straight line joining the two (2) said center lines at points a given number of feet distant from their point of intersection. The distances from this point of intersection are given in the following table for various speeds in miles per hour of enforced speed limit.

DISTANCE MEASUREMENTS FOR CLEAR SIGHT TRIANGLE

<i>Miles per hour</i>	<i>Distance measurement</i>
20	73 feet
25	99 feet
30	126 feet

214. *Reduction of lot.* No lot shall be sold, divided, or set off in such a manner that either the portion sold, divided, or set off, or the portion remaining shall be less than the minimum size prescribed by the regulations relating to the district in which it is situated, unless it becomes a part of an adjacent lot meeting requirements.

ARTICLE III. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

Section 300. Establishment of districts.

For the purpose of this ordinance, the joint jurisdictional area to the City of Brookings, South Dakota, is hereby divided into eighteen (18) types of districts:

Floodway	FW	Agricultural
Agricultural	A	Agricultural
Residence	R-1A	Single-family
Residence	R 1B	Single-family
Residence	R-2	Two-family
Residence	R-3	Multiple-family/Apartment
Residence	R-3A	Multiple-family/Mobile home
Business	RB-4	Neighborhood
Business	B-1	Central
Business	B-2	Fringe
Business	B-2A	Professional office
Business	B-3	Heavy
Business	B-4	Highway
Business	B-5	Planned Commercial
Industrial	I-1	Light
Industrial	I-1B	Restricted
Open	PDD	Planned development district

All of the zoning classifications with the exception of floodway (FW) may be used in floodplain areas and if so will carry a prefix FP, e.g., R-1A becomes FPR-1A, B-2 becomes FPB-2. Areas so designated may be used for purposes outlined in this ordinance provided that all construction be designed to withstand a 100-year flood, such design to be approved by the City Engineer (Ord. 42-83, 12-27-83)

301. Boundaries. Said districts are bounded and defined as shown on a map entitled "Joint Jurisdiction Zoning Map, Brookings, South Dakota, as amended" as adopted March 1, 1980, which accompanies and which, with all explanatory matter thereon in hereby made a part of this ordinance.

302. Rules for interpretation of district boundaries.

.1 Unless otherwise provided, zone district boundaries shall be on the municipal corporate lines, section lines, lot lines, natural boundary lines, or on the center lines of highways, streets, alleys, railroad rights-of-way, or such lines extended. In cases where such lines are not used, the zone district line shall be as determined by using the scale of the official zoning district map.

.2 Where a boundary line is shown as approximately parallel to a street, highway, steam or railroad line, such boundaries shall be construed as parallel thereto, and at such distance from the center line as determined by the use of the scale as shown on the official zoning map.

.3 Where a district boundary line divides a lot which was held in single ownership and a matter of record, at the time the boundary line was established, the use

regulations applicable to the least restricted district shall extend over the portion of the lot in the more restricted district, a distance of not more than thirty (30) feet beyond the district boundary line.

.4 Disputes concerning the exact location of any zoning district boundary line shall be decided by the Board of Adjustment according to the intent of this ordinance.

.5 Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then be subject to all regulations of the extended districts.

ARTICLE IV. AGRICULTURAL, RESIDENTIAL AND FLOODPLAIN AND AQUIFER DISTRICTS

Section 400. Floodway district FW.

.1 The purpose of this district is to protect from encroachment that portion of the floodplain that is defined as the floodway on the "Flood Boundary and Floodway Map" for the City of Brookings prepared by the U.S. Department of Housing and Urban Development, Federal Insurance Administration with an effective date of October 17, 1978.

The floodway is that channel of a stream plus any adjacent floodplain areas, that must be kept free of encroachment in order that the 100-year flood can be carried without increasing the flood height more than one (1) foot.

402. Permitted uses.

.1 Agricultural purposes such as crop production and raising of livestock not requiring a farm residence or other buildings.

.2 Public parks, playgrounds, private recreation, shooting range, campgrounds without overnight accommodations, or other open space uses of a noncommercial area. No structures allowed with any of the above uses.

403. Uses allowed by special exception by the Board of Adjustment

.1 Structures associated with the above uses if approval is obtained from the U.S. Department of Housing and Urban Development, Federal Insurance Administration.

Section 404. Aquifer district.

The purpose of this ordinance is to preserve the water quality of the Big Sioux Aquifer within the Joint Jurisdictional Area, protecting the development and use of land in a manner that will positively affect the quality of water within the areas designated Aquifer Secondary Impact Areas, and preventing any use that would affect the water quality within the Aquifer Critical Impact Areas associated with the public wells that supply the City of Brookings.

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

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

Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other 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.

.1 DEFINITIONS:

- a) Action. Any application for a permit under this ordinance or any development or use encompassed within the jurisdiction of this ordinance.
- b) Adverse Effects. A land use which produces or may potentially produce deterioration in water quality in the Big Sioux Aquifer which presently exceeds the Federal Primary Drinking Water Standards.
- c) Aquifer. A geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.
- d) Best Management Practices. Measures contained in Soil Conservation Service South Dakota Technical Guide, either managerial or structural, that are determined to be the most effective, practical means of preventing or reducing pollution inputs from nonpoint sources to water bodies.
- e) Big Sioux Aquifer. An unconfined, shallow groundwater system connected to the Big Sioux River, its tributaries and many lakes. It lies in South Dakota's eastern border counties.
- f) 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.

- g) Chemigation. The process of applying agricultural chemicals (fertilizer or pesticides) using an irrigation system by injecting the chemicals into the water.
- h) Class V Injection Well. A conduit through which potentially contaminated but generally non-hazardous fluids can move from the land surface to the sub-surface; 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. (Ord. 06-93, 3-9-93)
- i) Contamination. The process of making impure, unclean, inferior, or unfit for use by introduction of undesirable elements.
- j) Contingency Plans. Detailed plans for control, recontainment, recovery and clean up of hazardous materials released during fires, equipment failures, leaks and spills.
- k) Development. The carrying out of any construction, reconstruction, alteration of surface, structure, change of land use or intensity of use, and including but 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.
- l) Facility. Something that is built, installed or established for a particular purpose.
- m) Farm. An area with or without family dwelling which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding, or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities.
- n) Feedlot. A parcel of land whereon there is contained an operation of feeding or raising animals in excess of one hundred (100) animal units per acre or in excess of five hundred (500) animal units per parcel of land. One animal unit is equivalent to one beef cow, steer, feeder or fat beef animal, one horse, 0.7 dairy cow, 1.7 swine, 6.7 sheep, 33 hens, cockerels, capons, broiler or ducks, and 10 geese or turkeys.
- o) Grey Water. All domestic wastewater except toilet discharge water.
- p) Hazardous Materials. A material which is defined in one or more of the following categories.
 - 1) 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.
 - 2) Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: PCBs in some waste oils

- 3) **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.
 - 4) **Highly Toxic:** A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
 - 5) **Moderately Toxic:** A gas, liquid or solid which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.
 - 6) **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.
- q) **Manure Storage Area.** An area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons.
 - r) **Leaks and Spills.** Any unplanned or improper discharge of a potential contaminant including any discharge of a hazardous material.
 - s) **Pasture.** A field that provides continuous forage to animals without depletion of forage matter.
 - t) **Primary Containment Facility.** A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.
 - u) **Secondary Containment Facility.** A second tank, catchment pit, pipe or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Monitoring and recovery are required.
 - v) **Septic Tanks and Drain Fields.** In accordance with the State Water and Natural Resource Management the NODAK system is adopted as the Joint Jurisdictional Area system of preference.
 - w) **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.
 - x) **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.
 - y) **Zone of Contribution.** The entire area around a well or well field that is recharging or contributing water to the well or well field.
 - z) **Zone A -- Aquifer Critical Impact Zone.** That portion of the Big Sioux Aquifer which includes the city public water supply and other areas serving as public water supply. This area includes land surrounding the well fields and land upgradient from the well field in the established direction of ground and surface water flow. Individual wells, meeting water quality parameters and petitioning for aquifer critical impact status shall be protected as Aquifer Critical Impact Zones.

- aa) Zone B -- Aquifer Secondary Impact Zone. The remainder of the Big Sioux Aquifer between the Aquifer Critical Impact Zone and the Aquifer boundary within the Joint Jurisdictional Area.

.2 ESTABLISHMENT AND DELINEATION OF AQUIFER PROTECTION OVERLAY ZONES.

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 as drawn by Banner Associates. Sheets 3 and 4 of said maps are hereby adopted by reference as part of this ordinance as if the maps were fully described herein.

The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and United States Geological Survey. The zone of contribution was mapped using an analytical technique outlined in the U.S. Environmental Protection Agency publication "Guidelines for Delineation of Well head Protection Areas, June, 1987." The Aquifer Protection Overlay District was divided into two zones.

- a) 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.

- (1) Permitted uses in Zone A, provided they meet appropriate Performance Standards outlined for Aquifer Protection Overlay Zones:
 - a) Agriculture;
 - b) Horticulture;
 - c) Park, greenways or publicly owned recreational areas;
 - d) Necessary public utilities/facilities designed so as to prevent contamination of ground water.
- (2) Special Exceptions in Zone A:

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

 - a) Expansion of existing nonconforming uses to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds such expansion does not pose greater potential contamination to ground water than the existing use.

(3) Prohibited Uses in Zone A:

The following uses are expressly prohibited in Zone A:

- a) New feedlots installed after adoption of this ordinance;
- b) Disposal of solid waste except spreading of manure;
- c) Storage of road salt or disposal of snow containing de-icing chemicals; (Ord. 06-93, 3-9-93)
- d) Disposal of snow containing de-icing chemicals;
- e) Processing and storage of PCB containing oils;
- f) Car washes;
- g) Auto service, repair or painting facilities and junk or salvage yards;
- h) Disposal of radioactive waste;
- i) Graveyards or animal burial sites;
- j) Open burning and detonation sites;
- k) 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;
- l) All uses not permitted or not permitted as special exceptions in Zone A.
- m) Land spreading or dumping of petroleum contaminated soil, waste oil, or industrial wastes except for sites permitted as of January 1, 1993. (Ord. 06-93, 3-9-93)
- n) Class V Injection wells (Ord. 06-03, 3-20-93)

b) Zone B - Aquifer Secondary Impact Zones

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

(1) Permitted Uses in Zone B:

- a) 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) Special Exceptions in Zone B:

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

(3) Prohibited Use in Zone B:

The following use is expressly prohibited in Zone B:

- a) Fall application of nitrogen fertilizer except spreading of manure.
- b) Land spreading or dumping of petroleum contaminated soil, waste oil, or industrial wastes except for sites permitted as of January 1, 1993. (Ord. 06-93, 3-9-93)
- c) Class V Injection wells. (Ord. 06-93, 3-9-93)

c) Performance Standards:

In determining whether a permit should be granted, the City Engineer and/or the County Zoning Officer shall apply the following guidelines to determine the possible impact of the proposed action on Zone A –Aquifer Critical Impact Zone and/or Zone B - Secondary Impact Zone.

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

- (1) New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the State Department of Water and Natural Resources.
- (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 shall be regulated according to SDCL Chapter 74:03:28 – Underground Storage Tanks or SDCL Chapter 74:03:30 – Above Ground Stationary Storage Tanks. 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 July 1, 1990.
- (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 Soil 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.
- (6) Owners/operators of active or abandoned feedlots shall handle and dispose of manure in accordance with Soil Conservation Service South Dakota Engineering Standard, Waste Management System 312. (See Appendix 2)
- (7) 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.
- (8) An acceptable contingency plan for all permitted facilities must be prepared and on file in the City/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 110 percent of the largest volume of storage, will be provided with an overflow recovery catchment area (sump).
 - b) For fire control, plans shall include but not be limited to a safe fire fighting 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.
 - e) 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 4)

- f) The County Zoning Office and DWNR shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate ground water.

(9) 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.

d) The following standards shall apply to zoned areas excluding Agricultural in Zones A and B of the Aquifer Protection Overlay Districts:

- (1) Septic tanks and associated drain fields for containment of human or animal wastes must have approval of the State Department of Water and Natural Resources.
- (2) The storage and retention of any solid or liquid hazardous material which has the potential to adversely effect the water quality of the aquifer must have secondary containment facilities which are easily inspected and 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.
- (3) No open liquid waste ponds containing materials in (2) above will be permitted.
- (4) Storage of petroleum products in quantities exceeding fifty-five gallons at one locality in one tank or series of tanks must meet the requirements of (2) above.
- (5) Discharge of Industrial Process water on site is prohibited without City Engineer approval.
- (6) Use or storage of road salt or other chemical de-icers must be contained as in (2) above.
- (7) Auto service, repair, junk and/or salvage yards that are in excess of eight (8) motor vehicles and including farm machinery shall meet the Federal standards of handling and disposal of petroleum products.
- (8) A contingency plan must be presented for protection of the aquifer should floods, fire, and other natural catastrophes or equipment failure occur:
 - a) For flood control, all underground facilities shall include a monitoring system and secondary standpipe above the 100 year flood control level, for monitoring and recovery. For above ground facilities an impervious material dike, above the 100 year flood level and capable

- of containing 110% of the largest volume of storage will be provided with an overflow recovery catchment area (sump).
- b) For fire control, all plans shall include health and technical hazards that may be encountered by disaster control personnel in combating the fire, a fire retardant system, and a fire fighting procedure. Technical hazards to be considered are electrical lines both overhead and buried, pipes, other buried objects, and other hazardous liquids, chemicals, or open flames in the immediate vicinity.
 - c) For equipment failure, plans shall include:
 - (1) Below ground level, removal and replacement of leaking parts, leak detection system with monitoring, and an overfill protection.
 - (2) 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) If other natural disasters are known, the owner shall report of these incidents, either past or present, that involved this liquid or chemical material in an endangerment of the health and/or safety of either disaster personnel and/or the public in general. The City Health Department shall be informed of all spills in excess of the amounts specified in this ordinance.

.3 USE PERMITS REQUIRED.

It shall be unlawful for any person to engage in the development of land, whether for residential purposes or otherwise, for any commercial, or industrial pursuit whether permanent or temporary, unless such person first obtains a use permit as set forth in this ordinance.

.4 APPLICATION PROCEDURE.

All applications shall be made in the manner provided therein.

- a) Zone A - Critical Impact Zone shall be administered by both the City and County Planning Commissions in a joint meeting. All use permits in this area will be approved by the City and County Commission.
- b) All use permits in the zoned areas in Zone B - Secondary Impact Zone will be granted by the City Engineer's Office.
- c) All use permits in the Agricultural zoned areas will be granted by the County Zoning Officer.
- d) All use permit applications in Zone B - Secondary Impact Zone shall contain the following information.
 - (1) The applications shall include a description of the proposed action, use or development, including information and technical data, including complete

blueprints, adequate to allow for a careful assessment of the guidelines set forth.

(2) Where relevant, maps and other information shall be provided.

.5 GRANT OF PERMIT, ALTERATION OF USE.

A permit will be granted when the City Engineer's Office or the County Zoning Officer has examined the application in light of the foregoing criteria and determined that the use, activity, or development as proposed would not adversely effect the water quality of the Big Sioux Aquifer.

In granting a use permit, the owner/developer is responsible for any future modification which may become necessary to prevent contamination of shallow/surficial aquifers and the owner/developer must allow inspection of development by City and/or County personnel for the purpose of verifying that the development does not violate the intent of this ordinance.

Whenever any person has obtained a permit and thereafter desires to alter the use in any way from the authorized use, such person shall make application for a new permit.

If the area for which the permit is sought is zoned agricultural, the owner may appeal the decision to modify or deny a requested permit to the County Commission. In all other zoned areas, a similar appeal can be made to the City Commission.

.6 EXCEPTION.

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.

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.

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.

Septic tanks in the flood plain, during the spring flood period that use a drain or evaporation system, may release grey water into existing ditches, provided they inform the Department of Water & Natural Resources and the City Engineer and/or the County Zoning Officer.

.7 ENFORCEMENT.

It shall be the duty of the City and County Zoning Officer to enforce the provisions of this ordinance and to see that its requirements and restrictions are duly complied with. They shall adopt such reasonable procedures that within the scope of this ordinance shall facilitate the handling of all matters and questions arising hereunder, and may refer to the Health Officer, the Building Inspector, Emergency and Disaster Director, City Engineer and/or Fire Chief any matters that comes under their jurisdiction.

.8 UNDERLYING ZONES.

The underlying zoning restrictions of each zone apply as well as the restrictions set forth by this ordinance.

. 9 PENALTY.

For each and every violation of the provision of this ordinance, the owner, contractor or other individuals required to get a permit shall be fined in accordance with Section 910 or Ordinance No 14-80, the Zoning Ordinance of the Joint Jurisdictional Area surrounding the City of Brookings, South Dakota, adopted in 1980.

.10 SAVING CLAUSE

Nothing in this ordinance shall be construed to imply that the City and/or County, by issuing a use permit, have accepted any liability which the owner/developer has concerning any development which the owner/developer may undertake and which subsequently creates adverse effects within the shallow/surficial aquifer.

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

Section 405. Agricultural District A.

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

407. Permitted uses.

.1 Agricultural activities and farm related buildings, excluding feedlots

- .2 Farm dwelling
- .3 Single-family residences on less than 35 acre lots provided that such residences are on an established farm building site, abandoned school site, and further provided that the proposed site has established road access, the lot has clearly delineated boundaries and the site can meet minimum water and sewer standards
- .4 Fisheries services and game propagation areas
- .5 Orchards, tree farms, truck gardening, nurseries and greenhouses
- .6 Public parks and recreation areas

408. Uses allowed as special exception by the Board of Adjustment.

- .1 Airports and airstrips
- .2 Church or cemetery
- .3 Golf course, golf driving range
- .4 Sand, gravel or quarry operation, mineral exploration and extraction
- .5 Rock crushers, concrete and asphalt mixing plants
- .6 Sanitary landfills provided;
 - a) The site meets the requirements of the State Department of Water and Natural Resources
 - b) A site plan is provided indicating the following information:
 - .1) Present topography, soil types, depth to groundwater
 - .2) Location of existing water drainage, existing buildings, existing shelterbelts.
 - .3) Identification of roads leading to the site
 - .4) Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines
 - .5) Proposed monitoring wells, etc..
 - c) A minimum of one thousand (1,000) feet from the landfill property line to the nearest residence; excluding the residence of the landfill operator.
- .7 Institution farms, including religious farming communities
- .8 Sewage treatment plants

- .9 Livestock feedlots, poultry and fur farms, but not within one (1) mile of any incorporated municipality and within one thousand three hundred twenty (1,320) feet of any established residences and three hundred thirty (330) feet of a Federal, State, County, or Township highway
- .10 Stables
- .11 Veterinary clinics
- .12 Water pumping stations, elevated tanks and similar essential public utilities and service structures
- .13 One mobile home, on an established farmstead to be used for the occupancy of a farm employee, or by parents, grandparents, children, brothers and sisters of the occupant of the land, provided that said mobile home is removed within ninety (90) days of the vacation therefrom by the qualified occupant or occupants (Ord. 07-03, 3-23-93)
- .14 Caretakers residence in conjunction with a public or quasi public use
- .15 Radio and TV Towers
- .16 Public structures erected by any governmental agency providing that such structure is essential to serve the adjacent neighborhood, that it cannot be located in any other type of district, that it has adequate screening and landscaping where applicable, that it is housed in buildings that harmonize with the character of the neighborhood (Ord. 17-89, 10-10-89)
- .17 Home occupations shall be subject to the following requirements:
 - a. Such use shall be conducted entirely within a dwelling and carried on by not more than two (2) individuals, one of whom is the principal occupant.
 - b. Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.
 - c. The total area used for such purposes shall not exceed the equivalent of one-fourth (1/4) the floor area, in square feet, of the first floor of the user's dwelling unit, if any, otherwise of the main floor of such dwelling unit; but in any instance a maximum of three hundred (300) square feet shall be allowed.

- d. There shall be no advertising, display or other indications of a home occupation on the premises except as follows: (1) there is used no sign other than a non-lighted and non-reflecting name plate not more than four (4) square feet in area, which name plate may designate the home occupation carried on within, and which name plate must be clearly visible at the entrance to the premises where said home occupation is carried on and must be attached to the building wherein the home occupation is conducted.
- e. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products, provided that incidental retail sales may be made in connection with other permitted home occupations.
- f. There shall be no exterior storage on the premises of material used in the home occupation nor of any highly explosive or combustible material.
- g. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- h. A home occupation, including studios or rooms for instruction, shall provide an additional off-street parking area adequate to accommodate needs created by the home occupation of not less than two (2) parking spaces plus the parking spaces required for the dwelling unit. Such parking shall be provided on the same lot as the home occupation.
- i. For the purposes of this section, provided all requirements contained herein are met, the following shall be considered home occupations:
 - .1 Professional and service offices.
 - .2 Art and photo studio.
 - .3 Dressmaking or millinery.
 - .4 Teaching, with musical instruction limited to two (2) pupils at a time.
 - .5 The keeping of not more than two (2) roomers or boarders.
 - .6 Tea room.
 - .7 Barber shop.
 - .8 Beauty shop.
 - .9 Antique shop.
- j. Other uses in the opinion of the Board of Adjustment which would not be detrimental.

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

- .1 For the purpose of this section, provided all requirements are met, the following shall be considered farm home occupations:
 - a. Welding repair conducted in a safe manner
 - b. Veterinarian's office.
 - c. Blacksmith.
 - d. Service office.
 - e. Others which, in the opinion of the Board of Adjustment, would be in the same general character as those noted above.
- .2 Any home occupation shall be clearly supplementary to the principal use of the land and structures.
- .3 A home occupation may not be changed to another home occupation except by the issuance of a separate special use permit.
- .4 If any "A" District or part thereof is rezoned, the rezoned area shall meet the new district regulations and any home occupations shall be considered a nonconforming use until such requirements are met.
- .5 No sign shall be permitted larger than that allowed for a home occupation (see Section 408, .17, d.)

.19 Caretaker residences associated with public or private enterprise.

409. Setback, area and height requirements. All buildings be set back from road right-of-way lines and lot line to comply with the following yard requirements:

- .1 *Lot Size:* All lots for purposes of residential use unless otherwise provided for in this ordinance, shall be a minimum of thirty five (35) acres, except as provided in Item 7 below.

- .2 *Front Yard:* The minimum depth of the front yard shall be one hundred (100) feet.
- .3 *Side Yard:* The minimum width of a side yard shall be twenty-five (25) feet.
- .4 *Rear Yard:* The minimum depth of a rear yard shall be fifty (50) feet.
- .5 *Maximum Lot Coverage:* Dwellings and buildings accessory thereto shall cover not more than twenty-five (25) percent of the lot area.
- .6 *Shelterbelt Setback Requirements:* A shelterbelt, consisting of one (1) or more rows shall not be established within one hundred fifty (150) feet of a public road right-of-way line on the north and west sides of roads and not within one hundred (100) feet of a public road right-of-way line on the south and east sides of roads. Shelterbelts at right angles to roads shall provide a minimum turn-around of fifty (50) feet measured from the road right-of-way. Shelterbelts shall not be established within one hundred fifty (150) feet of adjoining property lines without written permission of adjoining property owners. Trees used for landscaping the area immediately adjacent to farmsteads and residences are exempt from this regulation.
- .7 *[Exception to minimum lot size].* The Board of Adjustment may allow a smaller minimum lot size for the "A" Agricultural District under the following condition:
 - a. Where a second single family home is requested on an established farmstead, so long as it is immediately connected to the existing farming operation.
 - b. Single family residences legally built under these ordinances shall be considered an established farm building site after it has existed ten (10) years. (Ord 07-93, 3-23-93)
 - c. The Board of Adjustment may deny any request for a smaller minimum lot size if it is determined to be an attempt to circumvent the intent or requirements of this ordinance. (Ord. 07-93, 3-23-93)
- .8 *Height regulation.* No main buildings shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. Exceptions include the following:
 - a. Agricultural buildings.

- b. Chimneys, smokestacks, cooling towers.
- c. Radio and TV towers.
- d. Water tanks.
- e. Elevators.
- f. Others, providing that they are not used for human occupancy. (Ord. 13-89, 7-11-89).

.9 *Moved in Buildings:*

- a. Any building moved into the Agricultural District must secure a building permit from the County Zoning Officer. (Ord. 07-93, 3-23-93)
- b. Any residence moved into the Agricultural District must have signature by petition of one hundred percent (100%) of the adjoining landowners and one hundred percent (100%) of the landowners within two hundred (200) feet. EXCEPTION: A new residence to be used for first occupancy constructed off the property and moved to location shall not require adjoining landowners' approval. (Ord. 07-93, 3-23-93)

.10 *Minimum Water and Sewer Requirements.* A water and sewer system cannot be approved until it meets the following standards:

- a. All public utilities and facilities shall be located, elevated, and constructed to minimize or eliminate flood damage; and (Ord. 07-93, 3-23-93)
- b. All new or replacement water supply systems and sanitary sewage systems, in addition to meeting the requirements of the South Dakota Department of Environment and Natural Resources must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. (Ord. 07-93, 3-23-93)

.11 *Minimum Mobile Home/Manufactured Home Requirements.*

- a. Must have signatures, by petition, of one hundred percent (100%) of the adjoining land owners and one hundred percent (100%) of the land owners within two hundred (200) feet. EXCEPTION: A new mobile home to be used for first occupancy, constructed off the property and moved to location shall not require adjoining landowners approval. (Ord. 07-93, 3-23-93)

- b. All mobile homes, regardless of location, shall be tied down as prescribed by the Defense Civil Preparedness Agency, TR-75, issued June 1972, by the U.S. Department of Defense. (Ord 07-93, 3-23-93)

Section 410. Residence R-IA single family.

411. Permitted uses.

- .1 Single-family dwelling.
- .2 Churches and similar places of worship which may include day-care facilities with such use confined to within the church worship and educational facilities. (Ord. 17-89, 10-10-89).
- .3 Public, parochial schools of general instruction.
- .4 Public libraries, museums, parks, playgrounds and similar community facilities.
- .5 Governmental administration and services such as office, firehouse, police, first aid, civil defense and like uses; however, this section shall not be interpreted to permit such uses as warehousing, indoor and outdoor storage of vehicles, road-building equipment and supplies.
- .6 Accessory uses incidental to any of the foregoing permitted uses, such as private garages, parking lots, etc.

412. Uses allowed as special exceptions by the Board of Adjustment.

- .1 Agriculture as a living, provided that there is no display of products other than in growth visible from the public right-of-way.
- .2 Public utility substations or pumping stations, upon a showing that such structure is essential to serve the immediate neighborhood, that it cannot be located in any other type of district and that it is housed in buildings that harmonize with the character of the neighborhood and has adequate screening and landscaping and meets all other standards of this ordinance.
- .3 Home occupation. (Ord. 17-89, 10-10-89)
- .4 Swimming pool not operated for profit, meeting recognized construction and safety standards and all other requirements of this ordinance.

- .5 Nonmunicipal libraries, museums, art galleries and community centers, whether or not operated for profit; non-commercial clubs and lodges.
- .6 Hospitals provided that the health officer of the city shall first certify that in the proposed location, such use will not have a detrimental effect on the health of the surrounding neighborhood and further provided that a nurse's home as an accessory use is permitted only on the same lot as the hospital.
- .7 Removable roadside stands for the sale of farm products produced on the premises, provided however, that any such stand shall be situated not less than forty (40) feet from the street right-of-way line or lot line and shall have adequate parking spaces, and in no event, less than four (4) parking spaces. Such stands shall be removed during seasons when products are not being offered for sale.
- .8 Accessory uses incidental to any of the foregoing special exceptions.

413. Area regulations.

- .1 *Lot area and width.* A lot area of not less than fifteen thousand (15,000) square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building frontage of not less than one hundred (100) feet.
- .2 *Front yard.* There shall be a front yard on each street on which the lot abuts, which yard shall be not less than forty (40) feet in depth.
- .3. *Side yard.* There shall be two (2) side yards on each lot neither of which shall be less than fifteen (15) feet in depth.
- .4 *Rear yard.* There shall be a rear yard on each lot, which yard shall not be less than thirty (30) feet.

414. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 720, 730 and 740.

Section 420. Residence R— 1B single-family.

421. Permitted uses.

- .1 All uses allowed by right in Residence R-1A District.
- .2 Public utility substations or pumping stations meeting the requirements of Section 412.2.

- .3 Private schools of general instruction
- .4 Accessory uses customarily incidental to any of the foregoing permitted uses.
- .5 Day-care facilities of twelve (12) or less persons at one (1) time.

422. Uses allowed as special exceptions by the Board of Adjustment.

- .1 All uses allowed as special exceptions in the Residence R-IA District, except roadside stands and agriculture as living. (Ord. 17-89, § III, 10-10-89)
- .2 Vocational or trade schools, whether or not operated for profit.
- .3 Retirement or nursing home.
- .4 Two-family dwelling.
- .5 Group home.
- .6 Home occupation. (Ord. 17-89, 10-10-89)
- .7 Public structures erected by any governmental agency providing that such structure is essential to serve the adjacent neighborhood, that it cannot be located in any other type of district, that it has adequate screening and landscaping and, where applicable, that it is housed in buildings that harmonize with the character of the neighborhood. (Ord. 17.89, 10-10-89)

423. Area regulations.

.1 *Lot area and width.*

- a. Single-family structures. A lot area of not less than ten thousand (10,000) square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than seventy-five (75) feet.
- b. Two-family dwelling, to the requirements specified in .1a, add two thousand four hundred (2,400) square feet of lot area and fifteen (15) feet of building line frontage for each additional dwelling unit.

.2 *Front yard.* There shall be a front yard on each street on which a lot abuts, which yard shall be not less than thirty (30) feet in depth.

.3 *Side yard.* There shall be two (2) side yards on each lot neither of which shall be less than eight (8) feet in depth.

.4 *Rear yard.* There shall be a rear yard on each lot, which yard shall not be less than twenty-five (25) feet in depth.

424. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 720, 730 and 740.

Section 430. Residence R-2 two-family.

431. Permitted uses.

.1 All uses allowed by right in Residence R-1B District.

.2 Two-family dwellings.

.3 Group home.

432. Uses allowed as special exceptions by the Board of Adjustment.

.1 All uses allowed by special exception in the Residence R-1B District.

.2 Boardinghouses.

.3 Multiple-family dwelling.

.4 Apartments, condominiums and townhouses.

.5 Fraternities and sororities.

.6 Funeral homes and mortuaries.

.7 Home occupations.

433. *Area regulations.*

.1 *Lot area and width.*

a. Single-family structures. A lot area of not less than seven thousand five hundred (7,500) square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than fifty (50) feet.

- b. Two-family and multiple-family dwellings. Add two thousand four hundred (2,400) square feet of lot area and fifteen (15) feet of building line frontage for each additional dwelling unit up to and including four (4) units.
- c. Multiple-family dwellings in excess of four (4) units, fraternities and sororities shall have a minimum of one hundred (100) feet of building line frontage and sixteen thousand (16,000) square feet of lot area. A maximum of eighteen (18) units per acre shall be allowed. Three hundred (300) square feet of open space shall be provided for each dwelling unit exclusive of other area requirements with a minimum of two-thirds (2/3) of the open space area located in one (1) large tract. (Ord. 17-89, 10-10-89)

.2 *Front yard.* There shall be a front yard on each street on which a lot abuts, which yard shall be no less than twenty-five (25) feet in depth.

.3 *Side yard.* There shall be two (2) side yards on each lot neither of which shall be less than seven (7) feet in depth.

.4 *Rear yard.* There shall be a rear yard on each lot, which shall not be less than twenty-five (25) feet in depth. (Ord. 17-89, 10-10-89)

434. Supplementary regulation. See regulations prescribed in Article VII, Section 700, 720, 730 and 740.

Section 440. Residence R-3 multiple-family and apartment.

441. Permitted uses.

- .1 All uses allowed by right in the Residence R-2 District.
- .2 Multiple-family dwellings.
- .3 Apartments, condominiums and townhouses.
- .4 Fraternities and sororities.
- .5 Reserved. (Ord. 17-89, 10-10-89)
- .6 Day-care facilities.

442. Uses allowed as special exceptions by the Board of Adjustment.

- .1 Uses allowed by special exception in the Residence R-IB District.
- .2 Home occupations.
- .3 Funeral homes and mortuaries.

443. Area regulations.

.1 *Lot area and width.*

- a. *Single-family structures.* A lot area of not less than six thousand (6,000) square feet per family shall be provided for every single-family dwelling hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than fifty (50) feet.
- b. *Two-family dwellings.* To the requirements in .1a, add two thousand four hundred (2,400) square feet of lot area and fifteen (15) feet of building line frontage for each additional dwelling unit.
- c. *Multiple-family, apartments, condominiums and townhouses.* A maximum of twenty-four (24) dwelling units per acre shall be permitted. Three hundred (300) square feet of open space shall be provided for each dwelling unit exclusive of other area requirements with a minimum of two-thirds (Y3) of the open space area located in one (1) large tract. There shall be a minimum of seventy-five (75) feet of building line frontage and a minimum lot area of ten thousand (10,000) square feet. (Ord. 17-89. 10-10-89)

.2 Front yard. There shall be a front yard on each street on which a lot abuts, which yard shall be not less than twenty (20) feet deep.

.3 Side yard. There shall be two (2) side yards on each lot, neither of which shall be less than seven (7) feet in depth.

.4 Rear yard. There shall be a rear yard on each lot which yard shall not be less than twenty-five (25) feet in depth.

444. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 720, 730 and 740.

Section 450. Residence R-3A multiple-family and mobile home.

451. Permitted uses.

- .1 All uses allowed by right in the Residence R-3 District.
- .2 Single mobile home. Shall be not less than four hundred (400) square feet in the main structure.
- .3 Mobile home park

452. Uses allowed by special exception by the Board of Adjustment.

- .1 Uses allowed by special exception in the Residence R-1B District.
- .2 Home occupations.

453. Area regulations.

- .1 Lot area and width.
 - a. Single-family, two-family and multiple-family structures shall conform to Section 443. 1a, .1b, .1c, .2, .3 and .4.
 - b. Single-mobile home. Lot area, frontage, front rear and side yard requirements shall be as required in Section 443.1a, .2, .3 and .4.
 - c. Mobile Home Park/Manufactured Housing Park
 - (1) Regulations regarding mobile homes/manufactured housing are set forth as follows:
 - (A) Perimeter park boundaries: The park shall have a twenty-five (25) foot landscaped area between a right-of-way line and any principal or accessory building, entryway, deck of private street. Other perimeter park boundaries shall have a minimum setback of seven (7) feet for any principal building and three (3) feet for any accessory building. (Ord. 11-01, 8-27-01)
 - (B) Streets – Private roadways or streets within a park shall have an asphalt or concrete surface thirty-four feet (34') in width where parking is permitted on both sides, twenty-seven feet (27') in width where parking is restricted to one side only, and twenty-four feet (24') where parking is prohibited. All parks and private streets or roadways shall have unobstructed access to a public highway or street. (Ord. 11-01, 8-27-01)
 - (C) Park Design: The location, site, and number of lots, streets, and driveways associated with a park shall be consistent with plans of file in the City Engineer's Department. A master site plan shall be required and shall be adhered to unless expressly modified through procedures established by the city. (Ord. 11-01, 8-27-01)

1. Lot Area – Each lot provided for the occupancy of a single mobile home/manufactured housing unit shall not be reduced in size.

Exception: A lot may be reduced in size to 5,500 square feet provided all setbacks are met. (Ord. 11-01, 8-27-01)

2. Spacing:

- a. A mobile home/manufactured housing unit shall not be less than fifteen (15) feet from any other mobile home/manufactured housing unit measured at the closest point. (Ord. 11-01, 8-27-01)
- b. An entryway or accessory building containing not more than 120 square feet or a deck attached to or abutting a mobile home/manufactured home shall not be less than eight (8) feet from any other home. (Ord. 11-01, 8-27-01)
- c. A garage, carport, or accessory building containing more than 120 square feet of floor area shall not be within ten (10) feet of an adjacent home. (Ord. 11-01, 8-13-01)

(D) Density - No park shall be permitted to have a density of more than ten (10) mobile home/manufactured housing units per acre and each park shall provide an area of not less than eight (8) acres. (Ord. 11-01, 8-13-01)

(E) Expansion - Existing mobile home/manufactured housing parks may be enlarged to an area of less than eight (8) acres provided the expansion complies with the regulations set forth in this section. (Ord. 11-01, 8-13-01)

454. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 720, 730 and 740.

ARTICLE V. BUSINESS DISTRICTS

Section 500. Business RB-4 neighborhood.

501. Permitted uses.

- .1 All permitted uses in the R-3 multiple-family and apartment district (Ord. 5-95, 2-28-95)
- .2 Business or professional office (Ord. 5-95, 2-28-95)

.3 Personal health service (Ord. 5-95, 2-28-95)

.4 Personal service store (Ord. 5-95, 2-28-95)

502. *Uses allowed as special exceptions by the Board of Adjustment.*

.1 Gas dispensing station with no repair work or the sale of vehicle accessories. (Ord. 5-95, 2-28-95)

.2 Grocery store (Ord. 5-95, 2-28-95)

.3 Pharmacy (Ord. 5-95, 2-28-95)

.4 Meat market (Ord. 5-95, 2-28-95)

.5 Delicatessen (Ord. 5-95, 2-28-95)

.6 Day care facility (Ord. 5-95, 2-28-95)

.7 Church (Ord. 5-95, 2-28-95)

503. Area regulations.

.1 Lot area and width. The minimum lot area shall be five thousand (5,000) square feet for each commercial area. The minimum lot width shall be fifty (50) feet.

.2 Front yard. There shall be a front yard on each street on which the lot abuts which shall be not less than twenty feet (20'). (Ord. 5-95, 2-28-95)

.3 Side yard. There shall be a side yard adjacent to any residential district of not less than twenty (20) feet.

.4 Rear yard. No building shall be within thirty (30) feet of the rear lot line.

.5 Residential uses shall conform to the area regulations of the R-3 multiple-family and apartment district. (Ord. 05-95, 2-28-95)

504. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 710, 720, 730 and 740.

Section 520. Business B-2 fringe.

521. Permitted uses.

- .1 Retail or service store or shop.
- .2 Personal service shop or agency such as tailor, dressmaking, beauty, barber or shoe repair shop.
- .3 Medical or dental clinic.
- .4 Business, professional and governmental offices.
- .5 Hotels, apartment, second floor or above.
- .6 Eating and drinking establishments, including those offering in-car services.
- .7 Theaters, except those offering in-car services.
- .8 Public transportation passenger facilities.
- .9 Telephone exchanges.
- .10 Funeral homes and mortuaries.
- .11 Parking lots.
- .12 Banks, savings and loan associations and other financial institutions.
- .13 Automobile sales.
- .14 Wholesale business without warehousing.
- .15 Auto laundries, provided that their operating machinery is within an enclosed structure and adequate drainage is provided.
- .16 Grocery supermarket.
- .17 Furniture sales.
- .18 Other similar uses requiring open storage or off-street parking and loading areas.
- .19 Service stations and repair garages.
- .20 Day care facilities.

522. Uses allowed as special exceptions by the Board of Adjustment.

- .1 Two-family dwellings.
- .2 Multiple-family dwellings.
- .3 Apartments.
- .4 Any uses incidental to the foregoing special exceptions.
- .5 Utility truck and trailer rentals.

523. Area regulations.

- .1 Lot area and width.
 - a. *Commercial structures.* A lot area of not less than fifteen thousand (15,000) square feet shall be provided for every building hereafter erected or used. Each lot shall have a building line frontage of not less than one hundred (100) feet.
 - b. *Residential structures.* Provision of Sections 423 and 433 shall determine lot area and width, side, front and rear yards.
- .2 All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a forty-foot side yard on the side abutting the residential district.
- .3 Front yard. There shall be a front yard on each street which a lot abuts, which yard shall be not less than twenty-five (25) feet in depth.
- .4 Rear yard. There shall be a rear yard on each lot, which yard shall be not less than twenty (20) feet in depth.

524. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 710, 720 and 730.

Section 530. Business B-2A professional office.

531. Permitted uses.

- .1 Office (Ord. 05-95, 2-28-95)
- .2 Personal health service (Ord. 05-95, 2-28-95)
- .3 Funeral home or mortuary (Ord. 05-95, 2-28-95)

.4 Pharmacy (Ord. 5-95, 2-28-95)

532. Area regulations.

- .1 All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a twenty-five (25) foot side yard on the side abutting the residential district. When adjacent to other than residential districts, no side yard is required; however, where side yards are provided for such a building, each such side yard shall be not less than six (6) feet in width. No minimum lot area or building frontage shall be required.
- .2 Front yard. There shall be a front yard on each street which a lot abuts, which yard shall be not less than twenty-five (25) feet in depth.
- .3 Rear yard. No building shall be within twenty (20) feet of the rear lot line.

533. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 710, 720 and 730.

Section 540. Business B-3 heavy.

541. Permitted uses.

- .1 Retail or service store (Ord. 5-95, 2-28-95)
- .2 Personal service store (Ord. 5-95, 2-28-95)
- .3 Personal health service (Ord. 5-95, 2-28-95)
- .4 Office (Ord. 5-95, 2-28-95)
- .5 Hotel (Ord. 5-95, 2-28-95)
- .6 Drive-in food service (Ord. 5-95, 2-28-95)
- .7 Public transportation facility (Ord. 5-95, 2-28-95)
- .8 Public utility facility (Ord. 5-95, 2-28-95)
- .9 Funeral home or mortuary (Ord. 5-95, 2-28-95)
- .10 Financial institution (Ord. 5-95, 2-28-95)
- .11 Grocery supermarket (Ord. 5-95, 2-28-95)
- .12 Automobile sales (Ord. 5-95, 2-28-95)
- .13 Gas dispensing station (Ord. 5-95, 2-28-95)
- .14 Parking facility or lot (Ord. 5-95, 2-28-95)
- .15 Indoor or outdoor recreational facility (Ord. 5-95, 2-28-95)
- .16 Car wash (Ord. 5-95, 2-28-95)
- .17 Animal hospital (Ord. 5-95, 2-28-95)
- .18 Temporary storage facility (Ord. 5-95, 2-28-95)
- .19 Reverse vending machine (Ord. 5-95, 2-28-95)
- .20 Motel (Ord. 5-95, 2-28-95)
- .21 Day care facility (Ord. 5-95, 2-28-95)

542. Uses allowed as special exceptions by the Board of Adjustment.

- .1 Outdoor sales (Ord. 5-95, 2-28-95)
- .2 Storage and warehousing (Ord. 5-95, 2-28-95)
- .3 Lumberyard (Ord. 5-95, 2-28-95)
- .4 Nursery or greenhouse (Ord. 5-95, 2-28-95)
- .5 Automobile service station (Ord. 5-95, 2-28-95)
- .6 Motor vehicle station (Ord. 5-95, 2-28-95)
- .7 Citizens dropoff for recyclables (Ord. 5-95, 2-28-95)
- .8 Buy back center for recyclables (Ord. 5-95, 2-28-95)
- .9 Household hazardous waste site (Ord. 5-95, 2-28-95)
- .10 Transfer site for recyclables (Ord. 5-95, 2-28-95)
- .11 Light processing facility (Ord. 5-95, 2-28-95)
- .12 Contractors shop and storage yard (Ord. 5-95, 2-28-95)
- .13 Seasonal roadside stand/operation (Ord. 5-95, 2-28-95)
- .14 Assembling and packaging (Ord. 5-95, 2-28-95)
- .15 Freight handling (Ord. 5-95, 2-28-95)
- .16 Manufacturing, light (Ord. 5-95, 2-28-95)
- .17 Utility truck and trailer rental (Ord. 5-95, 2-28-95)
- .18 Kennel (Ord. 5-95, 2-28-95)
- .19 Wholesale trade (Ord. 5-95, 2-28-95)

543. Area regulations.

- .1 All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a fifty (50) foot side yard on the side abutting the residential district. When adjacent to other than residential districts, no side yard is required; however, where side yards are provided for such a building, each such side yard shall not be less than six (6) feet in width.
- .2 Front yard. There shall be a front yard on each street which a lot abuts, which yard shall be not less than twenty (20) feet in depth.
- .3 Rear yard. No building shall be within twenty (20) feet of the rear lot line.

544. *Supplementary regulations.* See regulations prescribed in Article VII, Sections 700, 710, 720 and 730.

Section 550. Business B-4 highway.

551. *Permitted uses.*

- .1 Automobile service station (Ord. 5-95, 2-28-95)
- .2 Motel (Ord. 5-95, 2-28-95)
- .3 Retail or service store (Ord. 5-95, 2-28-95)

- .4 Truck stop with truck wash (Ord. 5-95, 2-28-95)
- .5 Public transportation facility (Ord. 5-95, 2-28-95)
- .6 Public utility facility (Ord. 5-95, 2-28-95)
- .7 Grocery supermarket (Ord. 5-95, 2-28-95)
- .8 Drive-in food service (Ord. 5-95, 2-28-95)
- .9 Animal hospital (Ord. 5-95, 2-28-95)
- .10 Indoor or outdoor recreational facility (Ord. 5-95, 2-28-95)
- .11 Parking facility or lot (Ord. 5-95, 2-28-95)
- .12 Financial institution (Ord. 5-95, 2-28-95)
- .13 Automobile sales (Ord. 5-95, 2-28-95)
- .14 Car wash (Ord. 5-95, 2-28-95)
- .15 Reverse vending machine (Ord. 5-95, 2-28-95)

552. Uses allowed as special exceptions by the Board of Adjustment.

- .1 Outdoor sales (Ord. 5-95, 2-28-95)
- .2 Utility trailer and truck rentals (Ord. 5-95, 2-28-95)
- .3 Citizen's dropoff for recyclables (Ord. 5-95, 2-28-95)
- .4 Storage and warehousing (Ord. 5-95, 2-28-95)
- .5 Lumberyard (Ord. 5-95, 2-28-95)
- .6 Nursery or greenhouse (Ord. 5-95, 2-28-95)
- .7 Roadside stand (Ord. 5-95, 2-28-95)
- .8 Assembling and packaging operation (Ord. 5-95, 2-28-95)
- .9 Freight handling (Ord. 5-95, 2-28-95)
- .10 Manufacturing, light (Ord. 5-95, 2-28-95)
- .11 Buy back center for recyclables (Ord. 5-95, 2-28-95)
- .12 Household hazardous waste (Ord. 5-95, 2-28-95)
- .13 Day care facility (Ord. 5-95, 2-28-95)
- .14 Transfer site for recyclables (Ord. 5-95, 2-28-95)

553. Area regulations.

- .1 Lot area and width. There shall be a lot area of not less than forty thousand (40,000) square feet per lot. Each lot shall have a building line frontage of not less than two hundred (200) feet, except that when a lot fronts on a service road, present or future, the minimum lot width shall be one hundred fifty (150) feet, with a minimum lot area of thirty thousand (30,000) square feet.
- .2 Front yard. There shall be a front yard on each street which a lot abuts, which yard shall be not less than fifty (50) feet in depth.
- .3 Side yard. There shall be two (2) side yards on each lot, neither of which shall be less than twenty-five (25) feet in depth. Side yards adjacent to any other residential district shall be not less than thirty five (35) feet.

.4 Rear yard. There shall be a rear yard on each lot, which yard shall not be less than thirty (30) feet in depth. No building shall be within forty (40) feet of any rear lot line, which abuts any other residential district.

554. Supplementary regulations. See regulations prescribed in Article VII. Sections 700. 720. 730 and 740.

Section 560. B-5 planned commercial district.

561. Permitted uses. A building or premises may be used only for the retail sale of merchandise; services, general and professional offices; recreational, except outdoor theaters; parking areas and other facilities ordinarily accepted as shopping center uses. Before land is used or a building erected or used for any of the above purposes, a preliminary plan and a final plan shall be approved by the City Planning Commission and County Planning Commission for all contiguous property within this district in any one location. The City Planning Commission and the County Planning Commission shall have forty-five (45) days to consider and approve or reject a preliminary plan, with or without modifications, although this period may be extended by agreement of the parties concerned. Rejection of a preliminary or final plan by either of the planning commissions may be appealed to their respective elected boards, i.e. the Brookings City Commission or the Brookings County Commission. Final plans will be approved when in accordance with approved preliminary plans. From time to time the proponents may make minor changes in the approved final plan so long as such changes have been approved by the zoning officer or, upon denial of approval by said zoning officer, with approval of the planning commissions as required of the original final plan. What constitutes a "minor" change will be determined at the sole discretion of the zoning officer. No building or occupancy permits shall be issued for any building or use that is not in accordance with the approved final plan. The preliminary plan shall:

- a. Be drawn to scale.
- b. Show boundaries of property to be developed.
- c. Show the proposed size, location, use and arrangement of stalls and number of cars, and entrance and exit driveways and their relationship to existing and proposed streets.
- d. Indicate location, type, use, and size of structures on adjacent properties within two hundred (200) feet of the proposed development.
- e. Provide for the dedication of any rights-of-way for the widening, extension, or connection of major streets as shown on the official plan.
- f. Indicate the stages, if any, which will be followed in construction. The final plan shall be the standard plot plan required to obtain a building permit, except that it shall show the use or types of uses to be accommodated in each building or portion thereof.

ARTICLE VI. INDUSTRIAL DISTRICTS

Section 600. Industrial 1-1 light.

601. Permitted uses.

- .1 Assembling and packaging, freight handling, light manufacturing, storage and warehousing and similar operations generally illustrated by the following uses.
- .2 Manufacturing or assembly of medical equipment, office supplies, musical and optical instruments, miscellaneous electronic apparatus and various toys and games for entertainment.
- .3 Manufacture or assembly of marine equipment, hardware, iron products, factory machinery, firearms, sheet metal products and electrical appliances.
- .4 Manufacture or storage of food, beverage, bakery and dairy products. Fruit and vegetable processing, meat and poultry packing and processing, but not the slaughtering of poultry or animals, nor the distilling of beverages.
- .5 Manufacture of containers of various materials and other wood products of a similar nature.
- .6 Manufacture of home furnishings and the preparation and finishing of textiles and fibers into material.
- .7 Preparation of cosmetics and other drug or pharmaceutical products.
- .8 Other similar light manufacturing uses, which do not endanger health and safety in surrounding areas, or create more offensive characteristics than that which is generally associated with light industries of the nature of those specified.
- .9 Any use permitted in the B-3 heavy business district.
- .10 Contractors storage, warehouses, and repair shops.
- .11 Parking lots.

602. Uses allowed as special exceptions by the Board of Adjustment

- .1 Gasoline, oil or alcohol storage above ground in excess of five hundred (500) gallons or other similar industrial uses not listed above.

603. Area regulations.

- .1 *Lot area and width.* There shall be no minimum lot area or width required.
- .2 *Front yard.* No building shall be constructed within twenty (20) feet of the front lot line.
- .3 *Side yard.* On lots adjacent to a residential district, all buildings and incidental areas shall be located so as to provide a minimum side yard of fifty (50) feet, all other side yards shall be a minimum of twenty (20) feet.
- .4 *Rear yard.* No building shall be constructed within twenty (20) feet of the rear yard line.

604. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 720, 730 and 740.

Section 610. Industrial I-1B restricted.

611. Permitted uses.

- .1 Same as 1-1 except the following uses are not allowed.
 - a. Any use permitted in the B-3 Heavy Business District that requires outside storage and sales.
 - b. Contractors storage, warehouses and repair shops.
 - c. Parking lots.

612. Special site plan requirement.

- .1 A site plan defining the development areas for construction of buildings, areas for parking, location of pedestrian and vehicular circulation routes, points of ingress and egress, including access streets where required, location and height of walls or other architectural features, the provision of off-street loading space, location, size and number of signs, and the character and extent of landscape development and other treatment for adjustment to surrounding property must be approved by the City Planning Commission and the city commission before a building permit is issued. The site plan shall be in conformance with Sections 613 and 614. Deviation from any of the regulations in Sections 613 and 614 shall be under the exclusive jurisdiction of the planning and zoning commission and the Brookings City Commission. (Ord. 17-89, 10-10-89)

613. Area regulations.

- .1 Lot area and width. There shall be no minimum lot area or width required. Lot size shall be determined by need, set back, side yards, rear yards, parking requirements, freight handling requirements, building site and future expansion. For manufacturing and B-3 business operations the building shall occupy no more than twenty-five (25) per cent of the lot. For warehousing operations the building shall occupy no more than fifty (50) percent of the lot.
- .2 Front yard. There shall be a front yard on each street which a lot abuts, and which yard shall be not less than one hundred (100) feet in depth.
- .3 Side yards. On lots adjacent to a residential district, excluding parks, all buildings and incidental areas shall be located so as to provide a minimum side yard of one hundred (100) feet, which shall be landscaped on the side adjacent to the residential district. All other side yards shall be a minimum of fifty (50) feet.
- .4 Rear yards. No building shall be constructed within fifty (50) feet of a rear lot line. The rear yard shall be one hundred (100) feet if the lot abuts an interstate or major highway.

614. *Site plan requirements.*

- .1 All parking areas, loading and unloading areas and driveways shall be hard surfaced.
- .2 Freight loading and unloading shall be at the rear or side of the building.
- .3 All raw materials and finished products shall be stored within an enclosed structure. If other than an enclosed structure is used, adequate and approved fencing and/or screening shall be provided to hide it from view from the streets and adjacent properties.
- .4 The lot shall be developed with grass and/or landscape plantings and shall include at least the front fifty (50) feet of the front yard and twenty-five (25) feet of the side yards and rear yard. See also Section 613.3.
- .5 Grassed and landscaped areas shall include shrubbery or trees. At least ten (10) trees per acre shall be planted. Consider the entire site to determine the number of trees.
- .6 Rear yard. When the rear yard or a lot abuts a street that is basically residential in nature, it shall be considered the front yard for set back and landscape requirements.
- .7 Signs. No advertising signs will be allowed. Business signs shall be in conformance with the existing sign ordinance for the district.

.8 Sidewalks. Public sidewalks will be required when deemed necessary by the City Commission.

615. Bonding requirements. The developer or the purchaser of the lot will be required to post an adequate bond in conformance with the city subdivision regulations, guaranteeing the installation of all landscaping, paving, etc.

616. *Supplementary regulations.* See regulations prescribed in Article VII, Sections 700, 720, 730 and 740.

Section 620. Industrial I-2 district.

621. Permitted uses.

.1 Any use permitted in Industrial, I-1 District

.2 Heavy manufacturing, fabricating and processing which would not be compatible with a commercial or residential environment.

.3 No uses will be allowed in the district which conflict with any ordinances of the City of Brookings or the County of Brookings regulating nuisances or laws of the State of South Dakota.

.4 Watchmen or caretakers when employed on the premises.

.5 Parking lots

621-a. Uses allowed as special exceptions by the Board of Adjustment.

. 1 Acid manufacture.

. 2 Automobile wrecking, cars and parts, storage and sale.

. 3 Cement, lime, gypsum, or plaster of pans manufacture.

. 4 Distillation, manufacture, or refining of bones, coal tar or asphalt.

. 5 Explosives, manufacture or storage.

. 6 Fat, grease, lard, or tallow rendering or refining.

. 7 Fertilizer manufacture (from organic matter).

. 8 Glue or size manufacture.

. 9 Garbage, offal or dead animal reduction or dumping.

.10 Junk and salvage (metal, paper, rags, waste or glass) storage, treatment or bailing.

.11 Paper manufacture.

.12 Petroleum or asphalt refining.

.13 Stockyards or slaughter of animals (except poultry).

.14 Asphalt plant.

- .15 Toxic or poison material processing. (Ord.17-89, 10-10-89)
- .16 Grain and forage processing and handling. (Ord.17-89, 10-10-89)
- .17 Alcohol plant. (Ord. 17-89, 10-10-89)

622. Area regulations.

- .1 Lot area and width. There shall be no minimum lot area or building line frontage required.
- .2 Front yard. No building shall be constructed within forty (40) feet of the front lot line.
- .3 Side yard. On lots adjacent to a residential district, all buildings and incidental areas shall be located so as to provide a minimum side yard of fifty (50) feet on the side adjacent to the residential district, all other side yards shall be a minimum of twenty (20) feet.
- .4 Rear yard. No building shall be constructed within twenty (20) feet of the rear lot line.

623. Supplementary regulations. See regulations prescribed in Article VII, Sections 700, 710, 720, 730 and 740.

Section 630. Planned Development District.

631. Purpose. It is the intent of this district to provide flexibility from conventional zoning regulations with increase public review for planned development district projects in order to:

- .1 Encourage well-planned, efficient urban development.
- .2 Allow a planned and coordinated mix of land uses which are compatible and harmonious, but previously discouraged by conventional zoning procedures.
- .3 Encourage more creative, higher quality and more ecologically sensitive urban design with special consideration given to projects which incorporate desirable design features such a underground parking, orientation or design to take advantage of passive solar energy, environmental preservation, historic preservation, handicapped accessible structures, unique use of open spaces, or other desirable design features.
- .4 Improve communications and cooperation between the City and County of Brookings, land developers and interested residents in the urbanization of new lands and the renewal of existing deteriorated areas. (Ord. 42-83, 12-27-83)

632. *Scope.* The regulations set forth in this section are the district regulations in the planned development district. (Ord.42-83, 12-27-83)

633. *Compliance with the master plan.* The development within the planned development districts shall comply with the policies and design standards of the existing joint jurisdictional master plan. Said developments shall be mutually compatible with adjacent projected developments. (Ord. 42-83, 12-27-83)

634. Procedure.

- .1 *Initial development plan.* When a petitioner wants to request rezoning to the planned development district, he shall submit his request to the engineer's office, showing the information specified in Section 635 below, a minimum of twenty (20) days prior to the planning commission meeting, at which consideration is desired. After the planned development request has been reviewed by the engineer's department, the city and County Planning Commissions shall make a recommendation to the City and County Commissions on the requested rezoning. The City and County Commissions shall then act to approve or deny said request.

This request for rezoning is subject to the requirements for Section 800, Article VIII, Appendix A-Zoning except that due to the complexity of the Planned Development and the detailed level of review that is required, no action shall be taken on a request to rezone property to the Planned Development District until the petitioner deposits with the City and County the sum of \$20.00 to cover the approximate cost of this procedure. No building permits shall be issued within the development until the final development plan is approved and the plat is filed. (Ord. 17-89, 10-10-89)

- .2 *Final development plan.* Prior to construction of any lots in the planned development, the petitioner shall present a final development plan, showing the information specified in Section 635 below, to the City Planning Commission who shall have the sole authority approve, deny, or amend said plan.

The final development plan may be submitted in conjunction with the initial development plan for concurrent approval on any sub-area the developer is ready to commit to a final plan. All the information required for both an initial and final development plan must be shown for the areas submitted for concurrent approval, except that the developer may reference the requirements of one (1) of the traditional zoning districts as the development standard for a particular sub-area. (Ord. 17-89, 10-10-89)

- .3 *Amendments.*

- a. *Major amendments.* Major amendments to the initial and/or final development plan shall be required to be approved as an amendment to the Zoning Ordinance, requiring the Planning Commissions' review, the City and County Commission's approval and the public notice, which have been provided for in Section 800, Article VIII, Appendix A – Zoning except that no action shall be taken by the City and County Commission on a major amendment until the petitioner deposits with the City and the County the sum of \$20.00 to cover the approximate cost of the review and processing of a major amendment. (Ord. 17-89, 10-10-89)
- b. *Minor amendments.* Minor amendments to the initial and/or final development plan shall be required to be approved by the Planning Commissions at a hearing for which notice has been published in a locally circulated newspaper at least fifteen (15) days prior to the Planning Commission meeting. Minor amendments to the initial development plan may also be made by the submission and approval of a final development plan which is changed from the approved initial development plan. (Ord. 17-89, 10-10-89)
- c. *Minimal amendments.* Minimal amendments to the final development plan shall be submitted to the City Zoning officer on a reproducible development plan showing the requested changes. The zoning officer may then approve said changes in writing if he/she deems it appropriate. (Ord. 42-83, 12-27-83)

635. Initial development plan. Upon application for rezoning to Planned Development District, the petitioner shall present an Initial Development Plan to the Planning Commission and the City Commission for their approval, showing the following information:

- .1 Project name and legal description.
- .2 A preliminary sub-division plan in compliance with Appendix B—Subdivisions, Article VIII, Section 800, City of Brookings Ordinances.
- .3 The proposed development scheme showing the following information:
 - a. The proposed land uses including the number and type or proposed residential buildings, the proposed number of dwelling units per building, the number and type of any proposed nonresidential buildings, and their square footage.
 - b. The proposed maximum density of the development which shall not exceed the density allowed in the traditional zoning districts for similar uses

except where unique physical, environmental, or design characteristics make such densities undesirable.

- c. The proposed minimum setbacks, which shall be no less than those required in the traditional zoning districts for similar uses, except where unique physical, environmental, or design characteristics make such setbacks undesirable.
- d. The proposed maximum height, which shall be no greater than those required in the traditional zoning districts for similar uses, except where unique physical, environmental, or design characteristics make such heights undesirable.
- e. Proposed design features illustrating compatibility to the surrounding environment and neighborhood.
- f. Anticipated sub-area development sequence. (Ord. 42-83, 12-27-83)

636. Final development plan. Prior to the construction on any lots in the Planned Development Zoning District, the petitioner shall present a final development plan to the Planning Commission for their approval. The final development plan shall show the following information:

- .1 The subdivision name, the legal description, and individual project name (if any).
- .2 Boundaries of the sub-area or sub-areas submitted for approval superimposed on the map of the Initial Development Plan.
- .3 A subdivision plat of the sub-area or sub-areas submitted for approval in compliance with Appendix B—Subdivisions, Article VIII, Section 803.
- .4 A scaled drawing showing the following information will be required for everything except family-family detached dwelling sub-areas:
 - a. Size and location of proposed structures including height and number of units.
 - b. Calculated floor area for each structure and each major use within said structure.
 - c. Off-street parking lot arrangement designating all parking spaces, off-street loading spaces, and any outdoor trash container space.

- d. Any sidewalks, bikeways, or other paths.
- e. Any outdoor lighting type and location except for standard street-lights provided by the city.
- f. Landscaping plan showing the type and location of any walls or fences, the placement, size, and species of any trees or shrubs, and berms and areas that will be sod or seeded.
- g. All existing and proposed utilities, drainageways, watercourses, and location of aboveground existing utilities on adjacent property.
- h. Proposed final ground contours.
- i. Curb cuts and private drives.
- j. Adjacent existing and proposed uses.
- k. First floor elevation for any structure located in a flood hazard area.
- l. Accurate building elevation of all proposed structures.
- m. The Initial Development Plan placed on file at the City Finance Office.
- n. Documentation of the ownership and maintenance responsibility of any common open spaces, structures, or facilities including private streets.
- o. Any sub-areas proposed for multiple-residential development may be required to provide an open area for recreation. Said open spaces shall not be included in any required yard, but it shall be located in the same sub-area it is intended to serve.
- p. Where applicable, compliance with aquifer zoning regulating land uses, which could contribute polluted water to designated aquifers.
- q. Proposed parking and loading spaces which shall be in conformance with zoning ordinance, Article VII, Sections 700, 701, 702, 703, 710, of this ordinance, except where unique physical, environmental, or design characteristics make such requirements undesirable.
- r. Unless otherwise specified on the final development plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each sub-area as a part of the final development plan. (Ord. 42-83, 12-27-83)

637. Amendments.

- .1 *Major amendments.* The following changes in an initial or final development plan are considered major amendments:
 - a. Any change in the proposed land uses.
 - b. A major change in the street pattern.
 - c. An increase in density above that was provided for in Section 637.2f below.

- .2 *Minor amendments.* The following changes in an Initial or Final Development Plan are considered minor amendments:
 - a. Any adjustment in the size or shape of the building envelope (increasing the height or reducing the building set-back).
 - b. Major decrease in density.
 - c. Any change in the number or location of curb cuts.
 - c. Any decrease in the size of required open areas.
 - e. A minor change in the street pattern.
 - f. Any increase in density of a sub-area:
 - Less than twenty-five (25) per cent for a sub-area with less than eight (8) units.
 - Less than fifteen (15) per cent for a sub-area with between nine (9) and twenty (20) units.
 - Less than eight (8) per cent for a sub-area with 21 units or more.

- .3 *Minimal amendments.* The following changes in an initial or final development plan are considered minimal amendments:
 - a. Any adjustment of a building within a previously established building envelope.
 - b. A minor reduction in density. (Ord. 42-83, 12-27-83)

ARTICLE VII. SUPPLEMENTARY REGULATIONS

Section 700. Off-Street Parking.

In conjunction with any principal building hereafter erected or any use of land hereafter established, there shall be provided on the same lot therewith sufficient parking spaces [to] meet the minimum requirements specified herein.

- .1 Auditoriums, assembly halls, dance halls, theaters, gymnasiums and skating rinks: One (1) space for each four (4) seats or bench-seating capacity.
- .2 Automatic car-wash. Ten (10) spaces for each washing bay.
- .3 Boarding, rooming or lodging house. One (1) space for each occupant.
- .4 Bowling alleys. Four (4) spaces per each lane.
- .5 Church. One (1) space for each five (5) seats in the main seating area.
- .6 Community center, library, museum or art gallery. Ten (10) spaces plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet.
- .7 Dwellings.
 - a. One (1) and two-family dwellings. Two (2) spaces for each dwelling unit. (Ord. 17-89, 10-10-89)
 - b. Multiple dwellings, apartments, townhouses and condominiums. Two (2) spaces for each dwelling unit exclusive of garages. (Ord. 17-89, § V, 10-10-89)
- .8 Fraternity or sorority. One (1) space for each bed or one (1) space for each student and advisor maintaining overnight accommodations.
- .9 Home occupation. One (1) space per dwelling unit plus three (3) spaces for each two hundred (200) feet of floor area devoted to said home occupation.
- .10 Hospital, sanitarium, home for the aged, nursing home or similar institution. One (1) space for each three (3) beds plus one (1) for each two (2) employees.
- .11 Hotel. One (1) space for each three (3) sleeping rooms or suites, plus one (1) space for each two hundred (200) square feet of commercial floor area contained therein.
- .12 Industrial and/or manufacturing. One (1) space for each two (2) employees on the maximum working shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

- .13 Motel, tourist, home or cabin court. One (1) space for each sleeping room or unit.
- .14 Offices, business and professional agencies, banks, medical or dental clinics. Three (3) spaces plus one (1) additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000) square feet.
- .15 Private club or lodge. One (1) space for every seven (7) memberships.
- .16 Restaurant, nightclub, cafe or similar recreation or amusement establishment. One (1) space for each one hundred (100) square feet of floor area.
- .17 Retail store or personal service establishment. One (1) space for each two hundred (200) square feet of floor area.

701. *Application of parking requirements.*

- .1 The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
- .2 Whenever a building erected or established after the effective date of this ordinance is enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of ten (10) per cent or more in the number of existing spaces, such spaces shall be provided on the basis of expansion or change.
- .3 Whenever a building existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) per cent or more in floor area, or whenever a building is changed in use but not in structure, then the parking requirements will be changed accordingly so as to be consistent with the enlargement or new use.
- .4 All parking spaces required herein shall be located on the same lot with the building use served.
 - a. Where an increase in the number of spaces is required by a change or enlargement or use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not to exceed four hundred (400) feet therefrom provided that parking is an allowed use in such district.

- b. Parking spaces required for a multiple-family or apartment complex may be provided in the same block on property that would be contiguous with the project of alleys and other public property is ignored.

.5 Joint use of parking facilities may be allowed under the following conditions:

- a. Not more than fifty (50) per cent of the parking spaces required for theaters, bowling alleys, dance halls, night clubs or cafes may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and other similar uses not normally open, used or operated during the same hours.
- b. Up to one hundred (100) per cent of the parking space required for a church or school auditorium may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and other similar uses not normally open, used or operated during the same hours.

.6 *Front-yard parking.* No off-street parking shall be permitted in the front yard of any residence or RB-4 neighborhood business district except for a normal driveway providing access to the garage or to the rear of the lot, except that front-yard parking shall also be permitted from November 15 to April 1 upon the side yard which is adjacent to and abutting the driveway. On a corner lot, no off-street parking shall be permitted between either the side lot line and the side street building line or the side lot line and the principal building, whichever is greater except for a normal driveway providing access to a garage or to the rear of the lot, except that front-yard parking shall also be permitted from November 15 to April 1 upon the side yard which is adjacent to and abutting the driveway. (Ord. 17-89, 10-10-89)

.7 Off-street parking spaces provided on other than the same property as the use is located shall be permitted only in such district permitting parking as a use. Such separate parking spaces shall be maintained as long as the principal building or uses are maintained.

.8 The parking requirements established by Section 700 are minimum requirements. All uses shall be required to provide all required parking on the lot or as allowed by the previous sections.

702. Access drives.

- .1 In business and industrial districts, the location and width of entrance and exit drives shall be determined by this section. (Ord. 17-89, 10-10-89)
 - a. The maximum number of driveways shall be limited to two (2) on any street the lot abuts.

- b. The minimum width for two-way traffic shall be twenty-four (24) feet.
- c. The maximum width driveway shall be forty (40) feet and will be limited to business such as service stations and similar operations.
- d. The minimum street frontage for two (2) driveways shall be one hundred (100) feet.
- e. Normal retail and service establishments shall be limited to a maximum driveway width of thirty (30) feet. (Ord. 17-89, 9-26-89)
- f. Parking spaces or access thereto may be allowed up to all property lines provided that adequate means are taken to prevent encroachment over the public right-of-way or over abutting private property. (Ord. 17-89, 10-10-89)
- g. On corner lots, driveways and parking shall not be allowed within (10) feet of the property corner nearest the street intersection. (Ord. 17-89, 10-10-89)

.2 In residential districts and on lots used solely as residential in other districts, the following shall apply:

- a. The maximum number of driveways shall be limited to one (1) on any street the lot abuts. (Ord. 17-90, 9-26-89)
- b. The curb cut width may not exceed thirty-five (35) per cent of the width of the lot or twenty-four (24) feet, whichever is less. (Ord. 17-90, 9-26-89)
- c. New driveway approaches shall be hard-surfaced with asphalt or concrete from the curbline to the sidewalk. (Ord. 10-89, 10-10-89)
- d. Driveway approaches from the street to the property line shall be not wider than the allowable curb cut. (Ord. 17-90, 9-26-89)
- e. The width of the driveway from the sidewalk, or property line if no sidewalk exists, onto the property shall not exceed thirty-five (35) per cent of the width of the lot frontage measured parallel to the frontage line. The frontage of a corner lot is defined as the narrow side of the lot, which abuts a street. (Ord. 17-90, 9-26-89)
- f. Driveways, within the above-listed parameters, may be placed contiguous to a side or rear lot line. (Ord. 17-89, 10-10-89)

.6 *Reserved.* (Ord. 17-89, 10-10-89)

703. *Accessory buildings, area and location.* An accessory building located on a residential lot shall not be nearer than three (3) feet to any side or rear lot line. When a garage is entered from an alley, it shall not be located closer than ten (10) feet to the alley line. An accessory building that is located closer than ten (10) feet to the rear line of the principal building shall provide the same side yard as is required for the principal building.

When the rear lot line of a corner lot abuts the side lot line of an adjoining lot, building clearances to the rear lot line shall be the same as required for interior side yards. Accessory buildings set back sixty (60) feet from the side lot line adjacent to the street may be within three (3) feet of the rear lot line. (Ord. 17-89, 10-10-89)

Section 710. Off-street loading.

Off-street loading and unloading space with proper access from a street or alley, and with at least fourteen (14) feet of vertical clearance shall be provided, either within or outside the building to adequately serve the use of the lot. All off-street loading and unloading spaces shall have all-weather surface to provide safe and convenient access and use during all seasons. This paragraph does not apply to agricultural districts.

Section 715. Amateur communication tower regulations.

716. Area regulations.

- .1 *Residential zones.* Tower placement must comply with the minimum side, front and rear yard requirements for structures for the respective zone in which it is to be placed. (Ord. 17-89, 10-10-89)
- .2 *Business zones.* Tower placement must comply with the minimum side, front and rear yard requirements for structures for the respective zone in which it is to be placed. (Ord. 17-89, 10-10-89)

717. Height restrictions.

- .1 *Basic height.* Each tower may have a basic height of thirty-five (35) feet. For every one (1) additional foot in from the side lot line, another one (1) foot in height can be added to a maximum height of sixty (60) feet. (Ord. 17-89, 10-10-89)

- .2 *Roof towers.* Towers attached to the roof of a structure shall extend not more than twenty (20) feet above the roofline.

718. Structure requirements.

- .1 *Material restrictions.* Towers constructed of wood are limited to a maximum height of thirty-five (35) feet. (Ord. 17-89, 10-10-89)
- .2 *Construction requirements.* Towers must be constructed and anchored according to the manufacturer's instructions. (Ord. 17-89, 10-10-89)

Section 720. Height regulations.

No building shall exceed thirty-five (35) feet in height in the R-IA and R-IB districts, or forty-five (45) feet in height in the R-2, R-3 and R-3A districts; except that buildings in the R-3 and R-3A districts may be increased in height one (1) foot for each foot the building is set back from all required yard lines up to a maximum height of one hundred twenty (120) feet, provided that the gross floor area, exclusive of enclosed garages, does not exceed the number of square feet of land area of the lot on which the building is placed. In commercial and industrial districts, no building shall exceed fifty (50) feet in height, provided that such height limits may be exceeded when authorized by the City and County Commissions. Farm buildings and structures supporting utility facilities are exempted from the provisions of this section. See also Section 409.

Section 721. Height regulations—Airport.

The following special regulations shall apply to any land airport other than a helicopter landing facility, owned and operated by a public agency:

- a. Within the air space above the approach zone to each end of a runway designed to be used for instrument landings, no building or structure shall be erected or altered to project above a plane with a slope of one (1) (vertical) to fifty (50) (horizontal) projected from a point two hundred (200) feet beyond the end of the runway, for a distance of ten thousand (10,000) feet, said plane to be in the shape of a symmetrical trapezoid one thousand (1,000) feet in width at its lowest point and four thousand (4,000) feet in width at its highest point; combined with a second plane with a slope of one (1) (vertical) to forty (40) (horizontal) extending from the upper edge of the first plane for an additional distance of forty thousand (40,000) feet, said plane to be in the shape of a symmetrical trapezoid four thousand (4,000) feet in width at its lowest point and sixteen thousand (16,000) feet in width at its highest point.

- b. Within the air space above the approach zone to each end of a runway not designed to be used for instrument landings, no building or structure shall be erected or altered to project above plane with a slope of one (1) (vertical) to forty (40) (horizontal) projected from a point two hundred (200) feet beyond the end of the runway for a distance of ten thousand (10,000) feet, said plane to be a symmetrical (*) feet wide at its lowest point and (*) feet wide at its highest point. (*) The applicable distance in feet must be based on runway lengths as set forth in Section 77.27 of Part 77 of the Federal Aviation Regulation.
- c. Within the established transition zones adjacent to each instrument and noninstrument runway and approach zone, no building or structure shall be erected or altered to project above a plane on a slope of one (1) (vertical) to seven (7) horizontal). Transition zones outward and upward from a line (*) feet on either side of the centerline of noninstrument runways for the length of such runway plus two hundred (200) feet on each end; and five hundred (500) feet on either side of the centerline of instrument runways for the length of such runway plus two hundred (200) feet on each end; to a height one hundred fifty (150) feet above the elevation of the airport reference point. In addition, transition zones are established adjacent to both instrument and noninstrument approach zones which flare outward and upward symmetrically along the entire length of each approach zone to where they intersect the surfaces of the horizontal and conical zones.
- d. Within (**) feet from the established airport reference point, no building or structure shall be erected or altered to project above a horizontal plane one hundred fifty (150) feet above the established airport elevation. The horizontal zone does not include the approach or transition zones. (**) The applicable distance in feet must be based on runway lengths as set forth in Section 77.25 of Part 77 of the Federal Aviation Regulation.
- e. Within the conical zone, which commences at the periphery of the horizontal zone and extends outward therefrom a distance of (**) feet, no building or structure shall be erected or altered to project above a plane with a slope of one (1) (vertical) to twenty (20) (horizontal).

Section 730. Signs.

All signs shall be in conformance with the sign ordinances of the City of Brookings except signs in agricultural districts and floodway areas. Signs in these areas shall, at a minimum meet all federal and state laws and regulations.

Section 740. Fences, walls, formal and informal hedges.

741. Fences, walls, formal and informal hedges in any residential zone district between the front lot line and the front building line for structures on interior lots and between the lot line and the building line on each street for corner lots, shall not exceed thirty (30) inches in height. Fences and walls on any other part of a lot may not exceed six (6) feet in height. The height of such walls or fences shall be determined by measurement from the ground level at the lowest grade level within three (3) feet of either side of such fences or walls. Any fence or wall more than six (6) feet in height shall be considered a structure. If an R-Residential lot faces into a B-Business or an I-Industrial zone district, the height of the fence or wall in front of the building line for structures shall not exceed four (4) feet in height.

Section 750. Service stations.

In any district where permitted, a service station shall be subject to the following regulations:

- 751. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.
- 752. No fuel delivery pump shall be located within twenty (20) feet from any side lot line nor within twenty-one (21) feet of any right-of-way line and no fuel pump shall be located within fifty (50) feet of the side or rear lot line which lies next to a residence.
- 753. All major repair work shall be done within a completely enclosed building.
- 754. All automobile parts, dismantled vehicles and merchandise shall be stored within the confines of the building during the hours when the business is not operating.

Section 760. Hotels and Motels.

761. Motel development standards.

- .1 *Minimum lot area.* The minimum lot area shall be one (1) acre and the access and egress shall be located not closer than thirty (30) feet to the side lot lines. The setback of any structure shall be fifty (50) feet from the front lot line on the street on which the property fronts.
- .2 *Yard requirements.* A minimum of twenty-five (25) feet shall be provided for both side yards and a thirty (30) foot rear yard shall be provided.

- .3 *Lot area per unit.* A minimum of one thousand (1,000) square feet shall be required for each bedroom unit.
- .4 *Parking, height and sign regulations.* See Article VII, Sections 700, 720 and 730 respectively.

Section 770. Designed shopping center.

In the case of a designed shopping center, upon examination of the plan by the city and County Planning Commissions, if such plan meets all other requirements, the side yard requirements for each individual building may be waived. In no case, however, shall any portion of such a combined structure be located nearer than thirty (30) feet to any side lot line of the tract on which a building is erected.

Section 780. Special provisions for large-scale residential developments.

- .1 Large-scale residential developments, where permitted, are subject to the following conditions:
 - a. The development shall have a minimum area of ten (10) acres.
 - b. The housing type, minimum lot area, yard, height, and accessory uses shall be determined by the requirements and procedure set below, which shall prevail over conflicting requirements of this ordinance or the ordinance governing the subdivision of the land.
 - c. The final development plan shall follow all applicable procedures, standards and requirements of the ordinance governing the subdivision of land. The final development plan shall be prepared by and have the seal of an architect or engineer duly registered to practice in this state. No building permit shall be issued until a final plat of the proposed development is approved and recorded.
 - d. The city and County Planning Commissions shall review the conformity of the proposed development with the standards of the official land use plan and recognized principles of civil design, land use planning, and landscape architecture. The minimum yard and maximum height requirements of the district in which the development is located shall not apply except that minimum yards shall be provided around the boundaries of the area being developed. The city or County Commissions may impose conditions regarding the layout, circulation and performance of the proposed development and may require that appropriate deed restrictions be filed, enforceable by the city or county for a period of twenty (20) years from the date of filing. A preliminary plat shall show building lines, common land,

streets, easements and other applicable features required by the ordinance regulating the subdivision of land.

e. The buildings may be used for single-family dwellings, two-family dwellings or multiple-dwellings, and usual accessory uses. The number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per family required by the district of districts in which the area is located. Net development area shall be determined by subtracting the area set aside for churches, schools and other nonresidential uses from the gross development area and deducting twenty (20) per cent of the remainder for streets, regardless of the amount of land actually required for streets. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted.

.2 The city and County Planning Commissions may hold one or more public hearings on a final development plan. The recommendations of the city and County Planning Commissions shall be forwarded to the Brookings City Commission and the Brookings County Commission, who shall approve or disapprove the action of the planning commissions, with or without modification, and after public hearing. After approval by the City and County Commissions and after any required restrictions are in effect, the zoning officer may issue permits enabling the approved final development to be carried out.

Section 790. Change to external boundary of joint jurisdictional area.

Any parcel of land added into the joint jurisdiction area shall hereafter become subject to the provisions of this zoning ordinance most nearly matching the classification existing for the land in the county zoning classification then in effect for the parcel. Differences between the conditions in county zoning practices and practices within the joint jurisdictional area be considered nonconforming uses after annexation.

ARTICLE VIII. GENERAL PROVISIONS AND ENFORCEMENT

Section 800. Amendments.

801. Requirements for change. Whenever the public necessity, safety, general welfare or good zoning practice justifies such action, and after consideration and recommendation by the city and County Planning Commissions as provided herein, the City and County Commissioners may change zone district boundaries, use groups or the regulations established by this ordinance after public hearing for which public notice is given as required by state law.

802. Initiation of change. A proposed change of zone district boundaries or regulations may be initiated by the city or County Commissioners, the city or County Planning Commissions, or by application of one or more of the owners of property with the area requested to be changed. Annexation by the city will automatically alter the inner boundary of the joint jurisdiction area to coincide with the new location of the city limit.

803. Consideration. Every three (3) months or at the discretion of the zoning officer, the city and County Planning Commissions will set hearings to consider requested changes or amendments to the zoning ordinance or zoning map pursuant to the provisions of this section. Public notice for these meetings and changes to be considered shall be given by publishing same in a manner consistent with similar matters before the respective commission. That is, the County Planning Commission will follow their established procedures and the City Planning Commission will follow their established procedures. For purposes of convenience the two (2) planning commissions or the two (2) elected commissions may choose to set jointly for the public hearings but will vote independently on each request for change.

804. Site plan and schedule. All requests for changes in the zoning map shall be accompanied by the following:

- .1 Intentions. A complete statement giving reasons and intentions for the planned future use of the area proposed for amendment.
- .2 Site plan. A site plan, drawn to scale, showing existing and proposed structures, uses, open spaces, facilities for parking and loading, and arrangements for pedestrian and vehicular circulation of the area proposed for amendment and all abutting properties with their use and zoning district defined. The site plan requirements may be waived if the area requested for rezoning is large in relation to the site scheduled for immediate use or if the zoning request is in conformance with the area future land use plan.
- .3 A proposed time schedule for beginning and completion of development.

805. Fees and expenses. All requests for changes in the zoning ordinance or map, except those initiated by the city or County Commissioners or the city or County Planning Commissions, shall be accompanied by a deposit of twenty dollars (\$20.00) which shall be used to defray the expenses of administrative preparation for consideration of the request.

806. Hearing and recommendation. The planning commissions may recommend approval or disapproval of a requested change, either in whole or in part. Recommendations for changes shall be presented to the City and County

Commissioners and a joint ordinance embodying such changes in whole or in part may be adopted by the City and County Commissioners in separate actions after public hearing thereon. Approval of both commissions is required for adoption of the amendment.

807. Procedure for amendment and filing objections thereto. Whenever the owners of fifty (50) per cent or more of the area of the lots in any district or part thereof desire any amendment, supplement or change in any of the provisions of this ordinance, applicable to such area, they may file a petition with the zoning officer requesting the City and County Commissioners to make such amendment, supplement or change; such petition shall be accompanied by the required maps and schedule under Section 804 showing the area affected by the proposed amendment, supplement or change, together with the boundaries of the said area and the names and addresses of all the owners on record in the office of the register of deeds of Brookings County, South Dakota; of lots therein and within a distance of two hundred (200) feet outside of the boundaries of said area; and such petition shall immediately be transmitted to the city and County Planning Commissions for an investigation and report.

808. Protest against change. The city and County Planning Commissions shall file their recommendations approving, disapproving or modifying the proposed amendment, supplement or change with the City and County Commissioners within forty-five (45) days thereafter.

.1 If any proposed amendment, supplement or change shall be adopted, the same shall be published and take effect as other ordinances unless the referendum be invoked, or unless a written protest be filed with the city finance officer, signed by at least forty (40) per cent of the owners of equity in the lots included in any proposed district and the lands within one hundred fifty (150) feet from any part of such proposed district measured by excluding streets and alleys. A corporation shall be construed to be a sole owner, and when parcels of land are in the name of more than one person, ownership representation shall be in proportion to the number of signers who join in the petition in relation to the number of owners. In the event such a protest be filed, the ordinance shall not become effective as to the proposed district against which the protest has been filed. Such written protest shall not be allowed as to any ordinance regulating or establishing floodplain areas.

.2 Whenever a petition requesting an amendment, supplement or change of any regulation prescribed by this ordinance, has been denied by the City and County Commissions, such petition cannot be renewed for one (1) year thereafter unless it be signed by at least fifty (50) per cent of the property owners who previously objected to the change; this provision,

however, shall not prevent the City and County Commissions from acting on their own initiative in any case or at any time as provided by this section.

ARTICLE IX. ADMINISTRATION

Section 900. Enforcement.

The city commission with the approval of the County Commission shall appoint a zoning officer to enforce the provisions of this ordinance. In all zones except those zoned agricultural, it shall be the duty of the zoning officer to examine all applications for permits, issue permits only for construction and uses which are in accordance with the requirements of this ordinance, record and file all applications for permits with accompanying plans and documents, and make such reports as the City and County Commissions may require. Permits for construction and uses which are a special exception or variance to requirements of this ordinance shall be issued only upon order by the Board of Adjustment. All permits, plats and subdivision regulations for land zoned agricultural shall be obtained from the county zoning officer and the County Planning Commission. The county zoning officer shall keep the zoning officer of the joint jurisdictional area informed of all actions to maintain one (1) complete set of records for the joint area.

Nothing herein contained shall require any change in plans or construction of a lawful use, the construction of which is started before the effective date of this ordinance and which is complete within one (1) year of the effective date of this ordinance.

901. This ordinance shall be enforced by the zoning officer who shall in no case except under a written order of the Board of Adjustment or the City and County Commissioners, issue any permit for the erection or structural alteration of any building, nor grant any zoning and use registration permit for any building or land where the proposed erection, structural alteration, or use thereof would be in violation of any provisions of this ordinance.
902. Meetings, rules and records. The zoning officer shall keep a complete record of the resolutions, transactions, findings and determinations made by the two (2) planning commissions on matters relating to the joint jurisdictional area.
903. Cost of administration. The cost of administration of this ordinance by the zoning officer shall be paid in a manner to be jointly approved by the City and County Commissions. The two (2) commissions may, from time to time, jointly adopt inspection fees for services rendered by various city and county employees in the enforcement of this ordinance.

904. Future land use map and major street plan. From time to time the two (2) planning commissions with the assistance of the zoning officer shall update the future land use map and major street plan for the joint jurisdictional area. The development of the future land use map and major street plan shall be made with the general purpose of building and accomplishing a coordinated, adjusted and harmonious development of the area with and adjoining the joint jurisdictional area.
905. Platting jurisdiction. From and after the time of adoption of this ordinance which includes a future land use map and major street plan no plat of a subdivision of land in the joint jurisdictional area shall be filed or recorded until it has been submitted to and approved by the appropriate commission, Subdivision plats of land in areas zoned agriculture must be submitted to and approved by the County Planning Commission and the County Commission. Subdivision plats of land in areas not zoned agriculture must be submitted and approved by the City Planning Commission and the city commission.
906. Subdivision regulations. Subdivision of land zoned agricultural shall be in accordance with the requirements of the Brookings County subdivision ordinances And subdivision of all other zoning classifications shall be in accordance with the Brookings City subdivision ordinances.
907. Improvements in unapproved streets. From and after the time when the platting jurisdiction of this ordinance becomes effective with its adoption, the city, county or other public authority shall not accept, lay out, open, improve, grade, pave or light any street or lay or authorize the laying of water mains, sewers, connections or other facilities or utilities in any street within the joint jurisdictional area unless such street shall have been accepted or opened, has or shall have otherwise received the legal status of, a public street prior to the adoption of this ordinance, or unless such street corresponds in its location and lines with street shown on a subdivision plat approved by the appropriate commission provided, however, that the County Commission may accept any other street if the ordinance or other measure for such location or construction or for such acceptance be first submitted to the city and County Planning Commissions, be passed by a majority of the entire County Commission.
908. *New building and unapproved streets.* From and after the time when the platting jurisdiction of this ordinance becomes effective with its adoption, no building permit shall be issued for or no building shall be erected on any lot within the joint jurisdictional area unless the street giving access to the lot in which said building is proposed to be placed shall be accepted or opened as, or shall have otherwise received the legal status of, a public street prior to

that time, or unless such street corresponds in its location and lines with a street shown on an approved subdivision plat. Any building erected in violation of this section shall be deemed an unlawful structure, and the County Commission may bring action to enjoin such erection or cause it to be vacated or removed.

Section 910. Penalties.

For each and every violation of the provisions of this ordinance, the owner, contractor or other persons interested as general agent, architect, engineer, land surveyor, building contractor, owner, tenant or any other persons who commit, take part or assist in any violation of this ordinance or who maintain any building or premises or uses of any land in violation of this ordinance, shall for each and every violation be imprisoned for a period not exceeding thirty (30) days or be fined not exceeding one hundred dollars (\$100.00) or both, at the discretion of the judicial officer before whom such a conviction may be had. Whenever such person shall have been officially notified by the zoning officer or by service of a summons in a prosecution, or in any official manner, that he has committed a violation, each day's continuance of such violation after such notification shall constitute a separate offense punishable by a like fine or penalty.

Section 920. Permits.

921. Zoning and use registration permits. A zoning and use registration permit shall be obtained from the zoning officer for any of the following:

- .1 Occupancy and use of a building hereafter constructed, enlarged, relocated, reconstructed or altered.
- .2 Any change in the use of an existing building.
- .3 Occupancy and use of vacant land, or change in the use of land except for any use consisting primarily of tilling the soil.
- .4 No such occupancy, use or change or use shall take place until a zoning and use registration permit therefore has been issued by the zoning officer. No zoning and use registration permit shall be issued unless the proposed occupancy is in full conformity with all the provisions of this ordinance.
- .5 A zoning and use registration permit shall be deemed to authorize, and is required, for both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect, so long as such buildings and the use thereof or the use of such land is in full conformity with the provisions of this ordinance and any requirements made pursuant

thereto. However, on the serving of written notice by the zoning officer of any violation of any of said provisions or requirements with respect to any building or the use thereof of land, the zoning and use registration permit for such use shall thereupon without further action, be null and void, and a new zoning and use registration permit shall be required for any further use of such building or land.

922. Application for permits. Application for zoning permits and use registration permits shall be made to the zoning officer in writing upon forms approved by the Board of Adjustment prior to securing building permits, and such forms shall be filled in by the owner, or authorized agent, and shall be accompanied by plans and other requirements of this ordinance. Such plans and data shall be final and conclusive and any deviation therefrom shall require a new zoning permit.
923. Appeals. Appeals from the decision of the zoning officer may be made to the Board of Adjustment by any person aggrieved, by an officer of the city or county or member of the city or County Commissioners. The applicant shall file with the zoning officer and with the Board of Adjustment a notice of appeal specifying the ground thereof. The zoning officer shall forthwith transmit to the board all papeconstituting the record upon which the action appealed from was taken. Such appeal shall be taken within a reasonable time as provided by the rules of the board.
924. Fee for appeal. Any person desiring to appeal from the decision of the zoning officer shall pay a fee of ten dollars (\$10.00) to the city finance officer and the receipt for same shall be attached to the notice of appeal to be delivered to the zoning officer, provided that officers of the city and county or members of the City and County Commissioner are exempt from the provisions hereof. No appeal shall be considered until the fee has been paid as provided herein.
925. Construction and building practices. All new construction, remodeling or modification to existing structures in the agricultural zone must conform to all the requirements for similar structures or modifications required by Brookings County ordinances relative to such matters and approved and enforced by the Brookings County Zoning officer. All new construction, remodeling or modification to existing structures in all zones except agricultural must conform to all requirements for similar structures or modifications required by Brookings City ordinances relative to such matters and approved and enforced by the joint area zoning officer.
926. Soil erosion and sedimentation control. Before issuing a building permit, the County-City zoning officer may require a filing of a Certificate of Intent to comply with the soil loss standards developed by the Brookings Conserva-

tion District. The County-City zoning officer shall consult the Brookings County Ordinance for the Control of Erosion and Sedimentation that was developed pursuant to SDCL 38-8A before determining if the proposed activity requires such a Certificate of Intent. If a complaint is received in regards to a violation of the Brookings soil loss standards caused by nonagricultural activities, the County-City zoning officer shall undertake those actions outlined in the Brookings County Ordinance for the Control of Erosion and Sedimentation in order to bring about compliance. (Ord. 12-81, 5-5-81)

Section 930. Board of Adjustment.

931. Agricultural zone. All matters requiring administrative review, consideration of special exceptions or the consideration of variances in agricultural zone areas shall be considered using procedures established by the Brookings County Zoning and Subdivision Regulations.

932. All zones except agricultural. For all matters requiring administrative review, considerations of special exceptions or the consideration of variances in all areas except those zoned agricultural shall be considered using procedures established by the zoning ordinance of the City of Brookings.

Section 940. Conflict, Validity and Interpretation.

941. Conflict with other ordinances. All ordinances and parts of ordinances to the extent that they are inconsistent with the provisions hereof, are hereby superseded.

942. Validity. Should any section, clause or provision of this ordinance be declared invalid, such shall not affect the validity of the remaining portions of this ordinance.

943. Interpretation. In the interpretation and application the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals and general welfare. Among other purposes, such provisions are intended to provide for adequate light, air and convenience of access; to lessen congestion in the streets; to secure safety from fire and other dangers; to avoid undue concentration of population by regulating and limiting the height and bulk of buildings wherever erected, to limit and determine the size of yards, courts and other open spaces; to regulate the density of population; all with reasonable consideration to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of property and encouraging the most appropriate use of land throughout the area surrounding the City of Brookings, South Dakota. All zoning changes from an agricultural classification to nonagricul-

tural use are intended to be made with consideration for the efficient and economic growth of the City of Brookings.

ARTICLE X. ENACTMENT DATE

Section 1000.

This ordinance shall take effect immediately upon its passage and publication according to law.

By the county:

First reading (June 3, 1980)
Second reading (June 24, 1980)
Passed and approved
(June 24, 1980)
George Messner, Chairman
Attest:

Alvin Schultz,
County Auditor

By the city:

First reading (May 27, 1980)
Second reading (June 24, 1980)
Passed and approved
(June 24, 1980)
Roger Prunty, Mayor
Attest:

Boyce Smith
City finance officer

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