

# Chamberlain Zoning Ordinance

**Adopted  
November 6, 2000**

**Prepared By:  
Planning & Development  
District III**



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# **CITY OFFICIALS**

## **City of Chamberlain Council Members:**

**Doug Nelson (Mayor)**

**Roger Burfeindt**

**Gary Busack**

**Eugene Dominiack**

**Timothy Thomas**

## **City of Chamberlain Planning Commission:**

**Wes Schaub**

**Jim Swenson**

**Terence Hickey**

**Rebecca Brown**

**Greg Powell**

## **City of Chamberlain Finance Officer:**

**Jeanie Reuer**

## **City of Chamberlain Planning Commission Secretary:**

**Nicky Gaulke**





***ADOPTION PROCEDURES  
AND  
REQUIRED DOCUMENTATION***

**REQUIRED ACTION**

**DATE**

City Council Minutes Acknowledging Receipt of  
Planning Commission's Proposed Zoning Ordinance

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City Council Minutes of Changes to  
Planning Commission's Proposed Zoning Ordinance

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Copy of City Council Public Hearing Notice

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Affidavit of Publication

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Public Hearing Minutes First Reading of Ordinance

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Second Reading of Ordinance Resolution of Adoption

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Ordinance Summary Prepared by Planning Commission,  
States Attorney Review

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Copy of Summary and Notice of Adoption Affidavit of Publication

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Register of Deeds Ordinance Recorded

\_\_\_\_\_



***COPY OF PUBLIC HEARING NOTICE***



***PUBLIC HEARING AFFIDAVIT OF PUBLICATION***



***PUBLIC HEARING MINUTES WITH FIRST READING***





***SECOND READING WITH RESOLUTION OF ADOPTION***



***ORDINANCE SUMMARY  
AND  
NOTICE OF ADOPTION  
CITY OF CHAMBERLAIN  
ZONING ORDINANCE***



***ADOPTION NOTICE AFFIDAVIT OF PUBLICATION***



## City of Chamberlain Zoning Ordinance District Lot Requirements Overview

District	Lot Area	Minimum Lot Width	Minimum Front Yard Depth	Minimum Rear Yard Depth	Minimum Side Yard Width
Agricultural (AG)	40 Acres	200 Feet	70 Feet	50 Feet	40 Feet
Low Density Residential (R-1)	15,000 sq. ft.	100 Feet	20 Feet	20 Feet	6 Feet <sup>1</sup>
Moderate Density Residential (R-2)	7,500 sq. ft. +2,000 sq. ft. for each unit in excess of the first 2	75 Feet	20 Feet	20 Feet	6 Feet <sup>1</sup>
Multi-Family Residential (R-3)	7,500 sq. ft. + 2,000 sq. ft. for each unit in excess of the first 2	75 Feet	20 Feet	20 Feet	6 Feet <sup>1</sup>
Manufactured Home Park (MHP)	4,000 sq. ft.	N/A	20 Feet	6 Feet	6 Feet
Downtown Commercial (C-1)	N/A	25 Feet	20 Feet <sup>2</sup>	6 Feet <sup>2</sup>	6 Feet <sup>1,2</sup>
Commercial (C-2)	5,000 sq. ft.	50 Feet	20 Feet	6 Feet	6 Feet <sup>1</sup>
Highway Commercial (C-3)	10,000 sq. ft.	100 Feet	40 Feet	10 Feet	10 Feet
Industrial (I)	25,000 sq. ft.	250 Feet	40 Feet	20 Feet	20 Feet
Public/Semi-Public (P)	N/A	N/A	N/A	N/A	N/A

**NOTE:** Refer to the ordinance text for more detailed information.

<sup>1</sup> Up to 20 Feet on corner lots at the Board's discretion.

<sup>2</sup> Applies to yard requirements only where the District abuts a Residential District.





## CHAPTER 1

### DEFINITIONS

#### Definitions

For purposes of this ordinance, certain terms are defined as follows:

Words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory and not directory. The word "persons" includes an individual, all partnerships, associations, and bodies political and corporate. The word "lot" includes the work "plot" or "parcel" or "tract". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied".

Abut - Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Building - A subordinate building, the use of which is purely incidental to the main building, is less than one hundred (100) percent of the area of the largest floor of the principal building, and is unattached from the principal building at least six (6) feet.

Accessory Use - A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal uses.

Actual Construction - Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially commenced, preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Addition - Any construction which increases the size of a building such as a porch, attached garage or carport, or a new room.

Agriculture - The tilling of the soil, the raising of crops, horticulture and gardening, but not including keeping or raising of large domesticated animals, similar animals or fowl, except household pets, and not including any agricultural product processing facility or similar uses.

Agriculture Product Processing Facility - A business activity customarily designed to process raw agricultural products into value added products. Agricultural processing facilities include, but are not limited to, feed mills, ethanol plants, soybean processing, packing plants and rendering facilities.

Alley - A way which affords only a secondary means of access to abutting property.

Animal Feeding Operation - An animal feeding operation is a facility where more than one thousand (1,000) animal units are confined, stabled, fed, or maintained in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership

are a single animal operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure.

Apartment - A portion of a multiple dwelling used as a separate housing unit and having cooking facilities and a private bath.

Applicant - For purposes of this Ordinance a person shall be deemed to be an applicant if they are the owner of the proposed facility; an officer or director of the owner thereof; or an owner of any interest, direct or indirect, in any company, except a publicly traded company, which is the owner of the proposed development.

Arcade - A place of business where an individual, association, partnership or corporation maintains four or more amusement devices for public use.

Bar - A building or part thereof where, in consideration of payment therefor, liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food.

Basement - A portion of a building with the floor located below the mean grade level. For the purpose of this ordinance, any such basement with more than 4 feet above grade level shall be counted as a story. No dwelling unit shall be situated in a basement having less than 4 feet above grade level.

Billboard - See Sign, Off-Site.

Board of Adjustment - The City Council shall serve as the Board of Adjustment.

Buildable Area - The portions of a lot remaining after required yards and setbacks have been provided.

Building - Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind, and when separated by common, shared walls without openings, each portion of such building so separated shall be deemed a separate building.

Building Setback Lines - A line parallel or approximately parallel to the lot lines at a specified distance therefrom, marking the minimum distance from the lot line that the building may be erected.

Building, Height of - The vertical distance from the average elevation of the finished grade at the building line to the highest point of a flat roof, or the deck line of a mansard roof, or the average height of the highest gable or gambrel, hip or pitch roof.

Building, Principal - A building in which is conducted the main use of the lot on which said building is located.

Building Line, Front - A line parallel to the street, intersecting the foremost point of the building, excluding uncovered steps.

Bus Depot - A building or premises where commercial motor vehicles pick up and discharge fare-paying passengers. Accessory uses may include ticket offices, luggage checking facilities and similar uses.

Camper - See Travel Trailer.

Campground - An area of land, managed as a unit, providing short term accommodation for tents, tent trailers, travel trailers, recreational vehicles, campers, and cabins.

Car Wash - An establishment having facilities for washing motor vehicles by production line methods which may include a conveyor system or similar mechanical devices. This definition may also include a self-service operation.

Cemetery - Land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried. "Cemetery" may include a structure for the purpose of the cremation of human remains and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments.

Church - A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

Clinic - A building or part of a building used solely for the purpose of consultation, diagnosis and treatment of patients by one or more legally qualified physicians, dentists, optometrists, podiatrists, chiropractors, or drugless practitioners, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include administrative offices, waiting rooms, treatment rooms, laboratories, pharmacies and dispensaries directly associate with the clinic, but shall not include accommodation for in-patient care or operating rooms for major surgery.

Club - A building owned, leased, or hired by a non-profit association of persons the use of which is generally restricted to due-paying members and their guests. Such club may periodically be rented, or leased, to non-members for gathering such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.

Company - For purposes of this ordinance the term, "company" includes, but is not limited to, any corporation, partnership, limited liability company, limited liability partnership, limited partnership, business trust and any other business entity.

Comprehensive Plan - Any legally adopted part or element of the City of Chamberlain Comprehensive Plan legally effective on the 16<sup>th</sup> day of April 1998 or the date of any subsequent amendment.

Conditional Use - A conditional use is a use that would not be appropriate, generally or without restriction, throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare. Such uses may be permitted in said zoning district as conditional uses, if specific provision for such conditional use is made in this Ordinance.

Congregate Housing - A residential facility for elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services and room cleaning. Such facilities may also provide other services, such as transportation for routine social, medical, and counseling appointments.

Contiguous - Next to, abutting, or touching and having a boundary, or portion thereof, which is adjoining.

Contractor - The person who contracts with an individual or Developer to construct a building or structure on a parcel of land prepared by an individual or Developer.

Covenant - An agreement, convention, or promise of two or more parties, by deed in writing, signed and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done. The term is currently used primarily with respect to promises in conveyance or other instruments relating to real estate.

Convenience Store - A retail store in which articles for sale are restricted to a limited range of primarily food items such as milk, bread, soft drinks, malt beverages, include beer and wine coolers (on and off sale), ice cream, canned and bottled goods, snacks and candy, meat, and to complement such items may include the limited sale of magazines, books and records, housewares, toiletries, stationary, tobacco products and motor fuel.

Court - Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded on two or more sides by the walls of a building.

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

Day Care Center - A facility for the care and supervision of twenty-one (21) or more children on a regular basis for part of a day as a supplement to regular parental care. Any type of group day care programs including nurseries for children of working parents, nursery schools for children under minimum age for education in public schools, parent cooperative nursery schools, playgroups for pre-school children, programs covering after-school care for school children provided such establishment is licensed by the State and conducted in accordance with State requirements.

Day Care, Family - The provision of regular care and supervision of no more than twelve (12) children including the provider's own children who are under the age of six (6) years for part of a twenty-four (24) hour period as a supplement to regular parental care.

Day Care, Group Family Home - The provision of regular care and supervision of thirteen (13) to twenty (20) children either in the provider's home or in a facility outside the provider's home for part of a twenty-four (24) hour period as a supplement to regular parental care.

Deck - A structure abutting a dwelling with no roof or walls except for visual partitions and railings which is constructed on piers or a foundation above-grade for use as an outdoor living area.

Developer - The owner of the property being platted or replatted or the person designated by the owner as being responsible for the development of the property. The terms "subdivider" and "developer" are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation and/or any officer, agent, employee and trustee thereof who does or participates in the doing of any act toward the subdivision of land within the intent, scope and purview of this Ordinance. The developer shall also be defined as the builder or contractor if they are responsible for the construction of buildings and/or structures or permanent improvements.

Dormitory - A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

Due Diligence - Such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.

Dwelling - A building or portion thereof, occupied exclusively as the residence of one (1) or more persons with each family having individual sleeping, cooking, and toilet facilities.

Dwelling Unit - Any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities, which are used or intended to be used for living, sleeping, cooking, and eating.

Dwelling, Efficiency Unit - A dwelling unit having only one (1) room exclusive of bathroom, compartments, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted in a multiple-family dwelling.

Dwelling, Four-Family - A residential building, other than a manufactured or modular home, designed for and occupied by four (4) families living independently of each other with separate sleeping, cooking, and toilet facilities. The number of families in residence not to exceed the number of dwelling units provided.

Dwelling, Multi-Family - A residential building designed for, or occupied by, five (5) or more families living independently of each other with separate sleeping, cooking, and toilet facilities. The number of families in residence not to exceed the number of dwelling units provided.

Dwelling, Single-Family - A detached residential dwelling unit other than a manufactured or modular home, designed for and occupied by one (1) family.

Dwelling, Three-Family - A residential building, other than a manufactured or modular home, designed for and occupied by three (3) families living independently of each other with separate sleeping, cooking, and toilet facilities. The number of families in residence not to exceed the number of dwelling units provided.

Dwelling, Two-Family - A residential building, other than a manufactured or modular home, designed for and occupied by two (2) families living independently of each other with separate sleeping, cooking, and toilet facilities. The number of families in residence not to exceed the number of dwelling units provided.

Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

Employee(s) - In regard to off-street parking requirements, all who work in the enterprise, including owners.

Exhibition Areas - A building, group of buildings, or place where art, objects, articles, or livestock or agricultural projects are placed on display or sold to the public.

Family - Any number of individuals living together as a single housekeeping unit, in which not more than five (5) individuals are unrelated by blood, marriage or adoption. This definition shall not include foster families as regulated by the State of South Dakota.

Farm, Hobby - An activity carried out in rural residential areas, which includes the planting, cultivating, harvesting and storage of grains, hay, plants, fruits, or vineyards.

Fence - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Financial Institutions - The premises of a bank, trust, finance, mortgage, or investment company.

Flammable or Combustible Liquids, or Hazardous Material - Flammable material is any material that will readily ignite from common sources of heat, or that will ignite at a temperature of 600 F or less. Flammable liquid is any liquid having a flash point below 100 F and having vapor pressure not exceeding forty (40) pounds per square inch (absolute) at 100 F. Combustible liquid is any liquid having a flash point at or above 100 F. Hazardous material includes any flammable solids, corrosive liquids, radioactive materials, oxidizing materials, highly toxic materials, poisonous gases, reactive materials, unstable materials, hyperbolic materials, pyrophoric materials, and any substance or mixture of substances which is an irritant, a strong sensitizer or which generates pressure through exposure to heat, decomposition or other means.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of wetlands, lakes, streams, tributaries, or other water bodies; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) - The official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without an accumulative increase in the water surface.

Food Product Processing Facility - A commercial establishment in which food or food-related products are processed, packaged, or otherwise prepared for human consumption but not consumed on the premises.

Garage - An accessory building or portion of a building including a carport which is designed or used for the sheltering of private motor vehicles and the storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

Garage, Public - A building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as "gasoline stations" or "service stations".

Gasoline Station - Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel, and oil or other lubrication substances; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning such vehicles.

Golf Course - A public or private area operated for the purpose of playing golf, and includes a par 3 golf course, club house and recreational facilities, accessory driving ranges and miniature golf courses, and similar uses.

Grain Elevator - Grain storage facilities, which are the principal and primary use of the lot. Said facilities are generally equipped with devices for housing and discharging significant quantities of grain. This definition does not include normal farm product storage and warehousing facilities such as grain bins and where such storage is an accessory use to the parcel.

Greenhouse, Commercial - A building for the growing of flowers, plants, shrubs, trees and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

Home Occupation - A business activity customarily carried on in the home by a member of the occupant's family:

1. That does not occupy more than twenty-five (25) percent of the dwelling;
2. Without structural alterations in the building or any of its rooms;
3. Without the installation or outside storage of any machinery, equipment or material other than that customary to normal household operations;
4. Without the employment of persons not residing in the home; and
5. Which does not cause the generation of traffic in excess of that experienced on an average street of similar design, noise, electrical interference, fumes, odors, etc.

Horticulture - The science or art of cultivating fruits, vegetables, flowers, and plants.

Hospital - An institution devoted primarily to the operation of facilities of the diagnosis, treatment and cure of disease, illness, injury, or other abnormal physical conditions with provisions for keeping patients overnight.

Hotel - An establishment of transient guests having sleeping rooms for more than six (6) persons for compensation and may or may not provide meals.

Junkyard - A place where nonrecyclable wastes, having no economic value, or waste which is recyclable, but has no chance of being recycled is deposited. See also Salvage Yard.

Kennel - Any place where two (2) or more dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes.

Loading Area - A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Locker - A meat processing plant and any other facility where meat, poultry, or eggs are cooked, cured, smoked or otherwise processed or packed, provided that all activities are carried out indoors. This term shall not include a stockyard, slaughterhouse, tannery, a poultry killing establishment, an animal food factory, or an animal by-products plant.

Lot - A tract, plot, or portion of subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Lot, Corner - A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty five (135) degrees.

Lot, Depth - The horizontal distance between the midpoint of the front and rear lot lines.

Lot, Double Frontage - A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Interior - A lot, other than a corner lot, with only (1) frontage on a street.

Lot, Through - A lot, other than a corner lot, with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Lot Coverage - The percent of the area of a lot occupied by buildings, or structures, including accessory building or structures.

Lot Frontage - The front of a lot shall be construed to be the portion nearest the street or where addressed. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards as defined herein.

Lot Frontage, Pie Shaped - A lot usually abutting a cul-de-sac. For the purpose of determining frontage, said distance shall be measured perpendicularly to the said lot lines at a point thirty (30) feet from the front line.

Lot Line - Any boundary line of a lot.

Lot Line, Exterior - The side lot line, which abuts the street on a corner lot.

Lot Line, Front - The front lot line is customarily defined by the street right-of-way.

Lot Line, Rear - The lot line or point of intersection of the side lot lines farthest from and opposite the front lot line.

Lot Line, Side - A lot line other than a front or rear lot line.

Lot of Record - A lot that is part of subdivision or otherwise legally approved and recorded in the office of County Register of Deeds.

Lot Width - The distance between side lot lines measured at right angles.

Major Street Plan - The Transportation Plan in the adopted City of Chamberlain Comprehensive Plan.



Manufactured Home - A moveable or portable dwelling which is eight (8) feet or more in width and thirty-two (32) feet or more in length, constructed on a chassis, and which is designed to be towed, designed for year-round occupancy, primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units, separately transportable, but designed to be joined together into one integral unit. Manufactured homes are built according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Manufactured homes are not mobile homes.

The following shall not be included in this definition:

1. Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles; and
2. Modular housing which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems.

Manufactured Home Park - Any premises where two (2) or more manufactured homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for two (2) or more manufactured homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended wholly or in part, for Manufactured Homes.

Manufacturing - The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service.

Massage Establishment - Any premises or part thereof where massages are given, offered or solicited in pursuance of a trade or calling, business or occupation provided that the service is rendered by a person duly trained, licensed and registered under the appropriate statute.

Mobile Home - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Modular Home - A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

Motel - A building or group of buildings containing rooms which are offered for compensation for the temporary accommodation of transients.

Museum - A building or buildings used, or to be used, for the preservation of a collection of paintings and/or other works of art, and/or of objects of natural history, and/or of mechanical, scientific and/or philosophical inventions, instruments, models and/or designs and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and/or other offices and premises used or to be used in connection therewith.

Nonconforming Lot - A lot of record existing on the date of passage of this ordinance which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming Structure - A lawful structure which exists on the date of passage of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.

Nonconforming Use - A lawful use of land, which exists on the date of passage of this ordinance that, would not be lawful in the district in which it is situated under the terms of this ordinance.

Noxious - When used with reference to any use or activity in respect of any land, building or structure or a use or activity which, from its nature or from the manner of carrying on same, creates or is liable to create, by reason or destructive gas or fumes, dust, objectionable odor, noise or vibration or unsightly storage of goods, wares, merchandise, salvage, machinery parts, junk, waste or other material, a condition which may become hazardous or injurious as regards to health or safety or which prejudices the character of the surrounding are or interferes with or may interfere with the normal enjoyment of any use of activity in respect of any land, building or structure. Application of the term noxious shall be subject to the reasonable person standard.

Nuisance - A nuisance consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others;
2. Offends decency;
3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street, or highway; or
4. In any way renders other persons insecure in life, or in the use of property.

Nursing Home, Rest Home, Convalescent Home - A place which undertakes through its ownership or management to provide maintenance, personal, or nursing care for three or more persons who by reason of illness, physical deformity, or old age are unable to care for themselves.

Obstruction - Any structure or vegetation that substantially blocks the vision of people.

Office - A building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, any industrial use, clinic, financial institution or place of amusement or place of assembly.

Open Sales Area - Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including but not limited to, passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments. No repair work is done in such area except for incidental repair of items to be displayed and sold on the premises.

Outdoor Storage Area - Any open land or area used for the purpose of storage of any product or part of a product either before, during, or after manufacture, servicing or repair and not displayed for retail sale. This does not include open sales areas.

Owner - The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

Park - An area consisting largely of open space, which may include a recreational area, playground or similar use but shall not include a mobile home park, a campground or trailer park.

Parking Space - An off-street space available for parking of a motor vehicle and which is held to be an area for dimension of which are ten (10) feet by twenty (20) feet or which covers two hundred (200) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto. Off-street parking shall be on or adjacent to the property on which the principal use is located.

Pawnshop - An establishment where money is loaned on the security of personal property pledged in the keeping of the pawnbroker.

Performance Standards - Criterion established for the purposes of:

1. Assigning proposed land uses to proper districts; and
2. Controlling noise, odor, glare, smoke, toxic matter, vibration, fire or explosive hazards generated by, or inherent in, uses of land or buildings.

Permitted Use - A use by right, which is specifically authorized in a particular zoning district.

Person - Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, governmental, or quasi-governmental entity.

Places of Assembly - Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.

Planning Commission - The Planning Commission of the City of Chamberlain. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not include Board of Adjustment or Zoning Board.

Plaza - A public square or similar open area.

Principal Use - The main use of land or structures as distinguished from a secondary or accessory use.

Public - Promotion of a public cause or service, including utilities having a franchise from the City of Chamberlain, but excluding other for-profit organizations.

Public Building - Any building which is owned, leased, primarily used and/or primarily occupied by a school district or municipal, county, state or federal government, or any subdivision or agency of the school district, municipal, county, state or federal government.

Publicly Traded Company - For purposes of this Ordinance a "publicly traded company" means a company, the shares or other interests in which are regularly traded on the New York Stock Exchange, the American Stock Exchange, NASDAQ or similar recognized security market.

Quarry - A place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial, or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.

Recreational Equipment - The term recreational equipment shall include boats and boat trailers, personal watercraft, snowmobiles, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Recycling Center - A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Rent-All Shop - A building or part of a building where residential and commercial equipment is kept for rental to the general public and includes such things as lawn and garden tools, floor cleaning equipment, masonry tools, painting and decorating equipment, moving tools, plumbing tools and power tools.

Repair Shop, Auto Body - A general industrial establishment for the repair of damage to a motor vehicle caused by collision, accident, corrosion or age, and, without limiting the generality of the foregoing, includes the reconstruction of motor vehicles, the painting or repainting of motor vehicles and the rebuilding or conversion of automotive engines or engine parts, but does not include a motor vehicle repair shop, an impounding yard, an automobile service station, or a gas station.

Repair Shop, Motor Vehicle - A service commercial or general industrial establishment for the repair or replacement of parts in a motor vehicle and without limiting the generality of the foregoing, shocks, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating or cooling systems, ignition systems, mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but does not include an auto body repair shop, an impounding yard, an automobile service station or a gas station.

Residential Care Facility - A family home, group care facility, or similar facility for twenty-four (24) hour non-medical care of persons in need of personal services, supervision or assistance for sustaining the activities of daily living or for the protection of the individual.

Restaurant - A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.

Restaurant, Drive-In - A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to eat either off the premises or within automobiles parked on the premises.

Restaurant, In-House - A private business establishment consisting of a kitchen, with or without a dining room, whose primary purpose is to prepare and serve food to be eaten by employees of the principal employer. For the purposes of this ordinance, the term "cafeteria" shall be synonymous with "Restaurant, In-House."

Rest Home - See Nursing Homes.

Retail Store - A building where goods, wares, merchandise, substances, articles or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles or items sufficient only to service such store.

Retaining Wall - A structure constructed to hold back or support an earthen bank.

Right-of-Way - An area of land that is legally described for the provision of public access within which there is usually a street.

Right-of-Way Line - A dividing line between a lot, tract, or parcel of land and the public right-of-way.

Roadside Stand - A structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.

Rodeo Grounds - A building or place where rodeo events such as roping and riding are done for practice or competition.

Salvage Yard - The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of lot, or tract of land for the sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

Satellite Dish/Receiver - A device incorporating a reflective surface that is solid, open mesh, or bar configured and is the shape of a shallow dish or cone designed and used for the reception of television signals related back to earth from a terrestrially and/or orbital based communications satellite.

School, Boarding - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools, accredited by the State of South Dakota and provides room and board for its students; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Denominational or Private - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools and accredited by the State of South Dakota; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Public - A school under the sponsorship of a public agency providing elementary or secondary curriculum, and accredited by the State of South Dakota; but excluding private trade or commercial schools.

School, Trade or Commercial - An establishment other than an accredited or licensed public, private or denominational school, offering training or instruction in art, occupation or trade.

Screening - A continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting, that would effectively screen the property which it encloses, and is broken only by access drives and walks.

Secondhand Shop – The use of land, or building or structure or part thereof where used goods, wares, merchandise, substances, or articles are offered or kept for sale but shall not include a pawnshop.

Security Dwelling Unit - A building or portion thereof designed for occupancy by a security employee.

Self-Storage Warehouse - A building containing separate, individual self-storage units divided from the floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.

Services - Establishments, primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair and amusement services, health, legal, engineering and other professional services, educational institutions, membership organizations, and other miscellaneous services.

Setback - The minimum horizontal distance from a lot line, to a wall of the building, exclusive of permitted projections. The setback shall be measured at right angles to such lot lines.

Sight Triangle - The triangular space formed by the street lines of a corner lot and a line drawn from a point in one street line to a point in the other street line, each such point being 30 feet from the point of intersection of the street lines (measured along the street lines). Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines. In the case of arterial highways intersecting with other arterial highways or railways, the distances establishing the sight triangle shall be increased to fifty (50) feet.

Sign - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

Sign, Banner - A temporary sign, which has a maximum area of twelve (12) square feet, composed of lightweight material either enclosed or not in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere (i.e., pennants, twirling signs, balloon, or other gas-filled figures, ribbons, or other similar moving devices) and intended to be displayed for a limited period of time.

Sign, Bulletin Board - An exterior sign, which has a maximum area of thirty-five (35) square feet, used by public, charitable, and religious institutions for the purpose of informing the public about activities of their organization.

Sign, Directional Off-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the primary use on a property that is not adjacent to the property on which the directional off-site sign exists. Said sign shall include only those signs placed by a political subdivision and shall include those signs standardized by the South Dakota Department of Transportation.

Sign, Directional On-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the property on which it is located, such as "no parking," "entrance," and "loading only." Said sign shall conform to standards adopted or approved by the regulating public agency.

Sign, Easement and Utility - An exterior sign, which has a maximum area of five (5) square feet, used to identify the location of easements, property lines, utilities, hazards, or otherwise providing notice of restrictions on public access.

Sign, Flag - Any fabric or bunting containing distinctive colors, patterns, or symbols, which has a maximum area of twenty (20) square feet and is used as a symbol of government, political subdivision, or other entity.

Sign, Ground and Monument - An exterior sign permanently attached to the ground to identify churches, schools, institutional, and public uses. Said sign may also identify a specific neighborhood by displaying the name of the tract. Ground and monument signs:

1. Are generally constructed of concrete or other masonry material;
2. Shall not exceed twenty (20) feet in height above the mean centerline street or grade;
3. Shall meet a minimum of one-half (½) of the yard requirements for the district in which it is located; and
4. Shall not exceed one hundred (100) square feet on one (1) side nor two hundred (200) square feet on all sides of any one (1) premise.

Sign, Mounted Wall - A sign, which has a maximum area of one hundred (100) square feet, that is attached to or erected against a wall of a building and shall project no more than twelve (12) inches from the wall of the building. Said sign is intended to be read from directly in front of the face of the building.

Sign, Name and Address Plate - A sign, which has a maximum area of two (2) square feet, that is affixed to the side of a building informing the public as to the residents, occupation, and/or street address of the building.

Sign, Off-site - A sign, which has a maximum area of two hundred (200) square feet, other than an exterior or interior on-site sign. Off-site signs are more conventionally known as billboards regardless of size.

Sign, Exterior on-site - An exterior sign, which has a maximum area of two hundred (200) square feet, relating in subject to the premises upon which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards, which are off-site signs.

Sign, Portable - Any sign, which has a maximum area of twenty (20) square feet, not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu and sandwich board signs. Signs attached to or painted on vehicles parked and visible from the public right-of-way shall not be included in this definition and shall be prohibited unless said vehicle is used in normal day-to-day operations of the business. Said sign is intended to be displayed for a limited period of time.

Sign, Projecting - Any sign, which has a maximum area of one hundred (100) square feet, that is affixed to a building or wall in such a manner that its face is perpendicular to the face of the building and the sign extends more than twelve (12) inches beyond the surface of such building or wall.

Sign, Real Estate - An exterior sign for the purpose of advertising the sale, rental, lease of real property. Said sign is located on the premises for sale, rental, or lease and shall be of a temporary nature and shall have a maximum area of four (4) square feet except in the Commercial, Highway Commercial, or Industrial Districts where the maximum area shall be thirty-two (32) square feet.

Sign, Roof - Any sign, which has maximum area of three hundred (300) square feet, that is erected upon, against, or directly above a roof or on top of the parapet of a building.

Street - A right-of-way established by a recorded plat to provide the primary means of access to abutting property.

Street, Arterial - A public street or highway intended to be used primarily for fast or heavy through traffic.

Street Line - The right-of-way line of a street.

Structure - Anything constructed or erected, the use of, which requires location on the ground or that it be attached to something having a location on the ground but not including utility lines and their normal accessory equipment excluding sidewalks, and driveways that conform to zoning regulations.

Structural Alterations - Any change or rearrangement of the supporting members (such as bearing walls, beams, columns, foundations, poles, or girders) of a building, or addition to a building, or movement of a building, from one location to another.

Swimming Pool - A water filled enclosure, permanently constructed or portable, having a depth of more than twenty four inches below the level of the surrounding land, or an above ground pool, having a depth of more than thirty inches, designed used and maintained for swimming and bathing.

Tank Farm - A facility having two or more storage containers for the transfer of inorganic liquids or gases and from which no retail sale of fuel to the public is or may be conducted.

Thrift Shop - A shop operated by a charitable organization, which sells, donated and used merchandise only. All such merchandise shall be displayed and/or stored in an enclosed building.

Tower - A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for governmental dispatch communications.

Trailer Park - This definition shall include the following existing trailer courts or parks:

1. Deboer, legally described as HJ King Addition, Block 25, Lots 1A, 1B, and 1C;
2. Lakeview, legally described as HJ King Addition, Block 28;
3. Schoberl, legally described as Schoberl Addition, Lots 1 through 16;
4. Western #1, legally described as Sunset Addition, Lots 1 through 13;



5. Western #2, legally described as HJ King Addition, Block 24, Lots 1 through 14; and
6. Willrods, legally described as HJ King Addition, Block 23, Lots 1 through 12.

Travel Trailer - An object designed for accommodation intended and used exclusively for travel, recreation and a vacation and which is capable of being drawn or propelled by a motor vehicle or is self-propelled and includes tent trailers or similar transportable accommodation, but does not include a mobile home.

Truck or Equipment Terminal - A building, structure or place where five (5) or more commercially licensed trucks or trailers are rented, leased, kept for hire, or stored or parked for compensation, or from which trucks or transports, stored or parked on the property, are dispatched for hire as common carriers, and which may include warehouse space.

Use - Use shall mean the purpose for which a lot or a building or structure, or any portion thereof, is designed, arranged, intended, occupies or maintained, and "used" shall have a corresponding meaning.

Utility Facility - Any above-ground structures or facilities, other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

Variance - A relaxation of the terms of this ordinance by the Board of Appeals where the literal enforcement of this ordinance would deny to the property enjoyed as a right by other property owners within the same zoning district. Variances shall be limited to height, bulk, and yard requirements.

Veterinary Clinic - A building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. No outside runs, pens or facilities shall be permitted.

Veterinary Services - A building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis.

Video Rental Shop - The use of land, building or structure for the purpose of renting video cassette recorders and/or video disc players and/or the rental of video tapes and/or discs.

Vision Clearance - An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets with railroads. See Sight Triangle.

Warehouse - A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances, or articles and may include facilities for a wholesale or retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.

Wholesale - The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade of business is the consumer or end user of the commodity.

Yard - An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted, and except for permitted accessory buildings in rear yards.

Yard, Front - A yard extending across the full width of a lot between the front lot line and the nearest portion of any structure serving or attached to any building or structure on the lot.

Yard, Rear - An open, unoccupied space extending across the rear of a lot from one side lot line to the other side lot line.

Yard, Side - A yard or open space on each side of the main building extending from the side lot line to the side wall of the building, exclusive of permitted projections and from the front yard to the rear yard, when an accessory building is constructed as part of the main building, the side yard requirements shall be the same for the accessory building as required for the main building.

Zone - An area within which, in accordance with the provisions of this Ordinance, certain uses of lands, buildings and structures are permitted and certain others are prohibited, where yards and other open spaces are required, where lot areas, building height limits and other requirements are established, all of the foregoing being identical for the zone and district in which they apply.

Zoning Administrator - An official of the City of Chamberlain appointed by the Mayor and confirmed by the City Council, charged with the responsibility of administering this ordinance.

## CHAPTER 2

### TITLE, PURPOSE, AND JURISDICTION

#### Section 201      Title

These regulations comprise the official City of Chamberlain Zoning Ordinance.

#### Section 203      Purpose

This ordinance is based upon the Comprehensive Plan for the City of Chamberlain as adopted by the City Council and legally effective on the 16<sup>th</sup> of April 1998, in conformance with Chapters 11-4 and 11-6 of the South Dakota Codified Laws. These regulations are designed to carry out the goals and objectives of the plan, with primary attention to promoting the public health, safety, and general welfare; secure safety from fire, natural disaster, and other dangers; and to encourage a distribution of population and use of land to promote and protect the economical and adequate provision of transportation, roads, water supply, drainage, sanitation, education, recreation, or other public requirements.

#### Section 205      Jurisdiction

The provisions of this Zoning Ordinance shall apply within the incorporated areas of the City of Chamberlain, as established on the map entitled "The Official Zoning Map of the City of Chamberlain, Brule County, South Dakota."

#### Section 207      Provisions of this Zoning Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, and general welfare.

Whenever the provisions require a greater width or size of yards, courts, or other spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards that are required, in the provisions of any other ordinance, the provisions of this Ordinance shall govern.

Wherever the provisions of any other ordinance require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

***THIS PAGE RESERVED FOR FUTURE USE***

## CHAPTER 3

### OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION

#### Section 301     General

The City and all property within its corporate limits is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Finance Officer, and bearing the seal of the City under the following words:

This is to certify that this is the Official Zoning Map referred to in Section 301 of the Chamberlain Zoning Ordinance #\_\_\_\_\_ enacted by the City of Chamberlain, Brule County, South Dakota.

Adopted this \_\_\_\_ day of \_\_\_\_ (month) \_\_\_\_, (year) \_\_\_\_.

#### Section 303     Zoning Map Changes

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows:

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by official action of the City Council, the following change(s) were made to the Official Zoning Map: *(brief description of nature of change)*.

Such entry shall be signed by the Mayor and attested by the Finance Officer. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said Map.

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

Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map shall be located in the office of the Finance Officer and shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the jurisdictional area.

#### Section 305     Zoning Map Replacement

If the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior

Official Zoning Map, but no such correction shall have the affect of amending the original Official Zoning Map or any subsequent amendment thereof.

The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Finance Officer and bearing the seal of the City under the following words:

This is to certify that this Official Zoning Map as adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ supersedes and replaces the Official Zoning Map adopted *(date of adoption of zoning map being replaced as part of Ordinance #\_\_\_\_\_)* of the City of Chamberlain, Brule County, South Dakota.

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 307     Rules for Interpretation of District Boundaries

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

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such lot lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of creeks, streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map; and
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections 1 through 4 above, the Board of Adjustment shall interpret the district boundaries.

## CHAPTER 4

### APPLICATION OF DISTRICT REGULATIONS

#### Section 401     General

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

#### Section 403     Zoning Affects Every Building and Use

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

#### Section 405     Performance Standards

No building or other structure shall, without approval and adherence to Section 403 and applicable district requirements, hereafter be erected or altered:

1. To exceed the height or bulk;
2. Except in conformity with area and parking restrictions of the appropriate district;
3. To accommodate or house a greater number of families;
4. So that there is more than one (1) principal building on one (1) buildable lot;
5. To occupy a greater percentage of lot area; and
6. To have narrower or smaller yards or other open spaces, than herein required, or in any other manner contrary to the provisions of this Ordinance.

#### Section 407     Open Space, Off-Street Parking, and Loading Space

No part of a yard, or other open space, off-street parking, or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, off-street parking, or loading space similarly required for any other building.

#### Section 409     Yard and Lot Reduction Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

Section 411     Unclassified or Unspecified Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 413     Annexed Land Provisions

All territory which may hereafter be annexed to the City, shall be considered to be zoned according to current County zoning district classifications, unless the City Council classifies the property otherwise pursuant to Section 2501.



## CHAPTER 5

### ESTABLISHMENT OF DISTRICTS

#### Section 501     Districts Created

For purposes of this ordinance the following zoning districts and zoning map designations are established.

AG	-	Agricultural
R-1	-	Low Density Residential
R-2	-	Moderate Density Residential
R-3	-	Multi-Family Residential
MHP	-	Manufactured Home Park
C-1	-	Downtown Commercial
C-2	-	Commercial
C-3	-	Highway Commercial
I	-	Industrial
P	-	Public/Semi-Public
PUD	-	Planned Unit Development

#### Section 503     District Regulations

District regulations shall be as set forth in sections of this ordinance and in Chapter 17 of this Ordinance entitled "Supplementary District Regulations".

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## CHAPTER 6

### AGRICULTURAL DISTRICT (AG)

#### Section 601     Intent

The intent of the Agriculture District (AG) is to protect agricultural lands and the natural character of the rural area from incompatible land uses; preserve land best suited to agricultural uses and land in which the natural environment should be continued; and to limit, or minimize the impact of residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

#### Section 603     Principal Permitted Uses and Structures

The following principal uses and structures shall be permitted in an Agriculture District (AG):

1. Agriculture;
2. Horticulture;
3. Greenhouses, commercial;
4. Riding stables;
5. Rodeo grounds;
6. Farms, hobby;
7. Dwellings, single-family;
8. Manufactured homes, pursuant to Section 1725;
9. Modular homes; and
10. Utility facilities.

#### Section 605     Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Agriculture District (AG):

1. Temporary roadside stands for retail sale of produce;
2. Home and farmstead occupations;
3. Day cares, family;
4. Signs, directional off-site;

5. Signs, directional on-site;
6. Signs, mounted wall;
7. Signs, real estate;
8. Signs, banner;
9. Signs, name and address plate;
10. Signs, easement and utility;
11. Signs, flag; and
12. Accessory structures and uses customary incidental thereto.

**Section 607**     **Conditional Uses**

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Agriculture District (AG):

1. Cemeteries;
2. Exhibition areas;
3. Towers;
4. Golf courses;
5. Airports;
6. Churches;
7. Signs, bulletin board;
8. Signs, exterior on-site;
9. Signs, off-site;
10. Signs, projecting;
11. Signs, portable; and
12. Signs, ground and monument.

Section 609     Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 611     Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 609 shall be prohibited.

Section 613     Minimum Lot Requirements

1. The minimum lot area shall be forty (40) acres; and
2. The minimum lot width shall be two hundred (200) feet.

Section 615     Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. There shall be a front yard of not less than a depth of seventy (70) feet;
2. There shall be a rear yard of not less than a depth of fifty (50) feet;
3. Each side yard shall not be less than a width of forty (40) feet;
4. All accessory buildings shall conform to the same yard requirements as dwellings, except that no private garage may be built closer than fifteen (15) feet to a rear lot line; and
5. In areas where no alley exists, or is planned, rear yards shall have a minimum of ten (10) feet dedicated for utility and fire access and shall maintain the area free of obstructions, including but not limited to trees, fences, and other obstructions.

Section 617     Maximum Height

The height of any dwelling unit shall not exceed thirty-five (35) feet.

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## CHAPTER 7

### LOW DENSITY RESIDENTIAL DISTRICT (R-1)

#### Section 701    Intent

This district is intended to provide for a low density of single-family residential dwellings within the existing ranges of municipal services, or where municipal services can be obtained or developed economically.

#### Section 703    Principal Permitted Uses and Structures

The following principal uses and structures shall be permitted in a Low Density Residential District (R-1):

1. Dwellings, single-family;
2. Schools, public;
3. Schools, private or denominational;
4. Churches;
5. Parks; and
6. Utility facilities.

#### Section 705    Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Low Density Residential District (R-1):

1. Garages;
2. Accessory buildings;
3. Home occupations;
4. Day cares, family;
5. Signs, directional on-site;
6. Signs, directional off-site;
7. Signs, real estate;
8. Signs, banner;

9. Signs, name and address plate;
10. Signs, easement and utility; and
11. Signs, flag.

Section 707     Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Low Density Residential District (R-1):

1. Modular homes;
2. Signs, bulletin board;
3. Signs, portable;
4. Signs, ground and monument; and
5. Towers.

Section 709     Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 711     Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 709 shall be prohibited.

Section 713     Minimum Lot Requirements

1. The minimum lot area per single-family units shall be fifteen thousand (15,000) square feet; and
2. The minimum lot width shall be one hundred (100) feet.



Section 715    Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. There shall be a front yard of not less than a depth of twenty (20) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet, except that decks and patios may extend ten (10) feet into a rear yard; and
3. Each side yard shall not be less than six (6) feet.

Section 717    Maximum Height

The height of all buildings and structures shall not exceed thirty-five (35) feet.

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## CHAPTER 8

### MODERATE DENSITY RESIDENTIAL DISTRICT (R-2)

#### Section 801     Intent

This district is intended to provide for a moderate density of a combination of residential dwelling options within the existing ranges of municipal services, or where municipal services can be obtained or developed economically.

#### Section 803     Principal Permitted Uses and Structures

The following principal uses and structures shall be permitted in a Moderate Density Residential District (R-2):

1. Dwellings, single-family;
2. Modular homes;
3. Schools, public;
4. Schools, private or denominational;
5. Churches;
6. Parks; and
7. Utility facilities.

#### Section 805     Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Moderate Density Residential District (R-2):

1. Garages;
2. Accessory buildings;
3. Home occupations;
4. Day cares, family;
5. Signs, directional on-site;
6. Signs, directional off-site;
7. Signs, real estate;

8. Signs, banner;
9. Signs, name and address plate;
10. Signs, easement and utility; and
11. Signs, flag.

Section 807     Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Moderate Density Residential District (R-2):

1. Dwellings, two-family;
2. Dwellings, three-family;
3. Dwellings, four-family;
4. Manufactured homes, pursuant to Section 1725;
5. Day care centers;
6. Day cares, group family home;
7. Trailer parks, pursuant to Section 1727;
8. Towers;
9. Swimming pools;
10. Signs, bulletin board;
11. Signs, portable; and
12. Signs, ground and monument.

Section 809     Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 811     Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 809 shall be prohibited.

Section 813     Minimum Lot Requirements

1. The minimum lot area per single-family and two-family dwelling units shall be seven thousand five hundred (7,500) square feet;
2. The minimum lot area shall not be less than two thousand (2,000) square feet for each dwelling unit thereafter; and
3. The minimum lot width shall be seventy-five (75) feet.

Section 815     Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. There shall be a front yard of not less than a depth of twenty (20) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet, except that decks and patios may extend ten (10) feet into a rear yard; and
3. Each side yard shall not be less than six (6) feet.

Section 817     Maximum Height

The height of all buildings and structures shall not exceed thirty-five (35) feet.

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## CHAPTER 9

### MULTI-FAMILY RESIDENTIAL DISTRICT (R-3)

#### Section 901     Intent

This district is intended to provide for a high density of residential dwellings, including multiple family units, within the existing ranges of municipal services.

#### Section 903     Principal Permitted Uses and Structures

The following principal uses and structures shall be permitted in a Multi-family Residential District (R-3):

1. Dwellings, single-family;
2. Dwellings, two-family;
3. Dwellings, three-family;
4. Dwellings, four-family;
5. Dwellings, multi-family;
6. Modular homes;
7. Schools, public;
8. Schools, private or denominational;
9. Churches;
10. Parks; and
11. Utility facilities.

#### Section 905     Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Multi-family Residential District (R-3):

1. Garages;
2. Accessory buildings;
3. Day cares, family;
4. Signs, directional on-site;

5. Signs, directional off-site;
6. Signs, real estate;
7. Signs, banner;
8. Signs, name and address plate;
9. Signs, easement and utility; and
10. Signs, flag.

Section 907     Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Multi-family Residential District (R-3):

1. Manufactured homes, pursuant to 1725;
2. Day care centers;
3. Day cares, group family home;
4. Residential care facilities;
5. Nursing, rest, and convalescent homes;
6. Congregate housing;
7. Clinics;
8. Hospitals;
9. Swimming pools;
10. Funeral homes;
11. Signs, bulletin board;
12. Signs, portable;
13. Signs, ground and monument; and
14. Towers.



Section 909      Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 911      Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 909 shall be prohibited.

Section 913      Minimum Lot Requirements

1. The minimum lot area per single-family or two-family dwelling units shall not be less than seven thousand five hundred (7,500) square feet;
2. The minimum lot area shall not be less than two thousand (2,000) square feet for each dwelling unit thereafter; and
3. The minimum lot width shall be seventy-five (75) feet.

Section 915      Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. There shall be a front yard of not less than a depth of twenty (20) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet, except that decks and patios may expand ten (10) feet into a rear yard; and
3. Each side yard shall not be less than six (6) feet.

Section 917      Maximum Height

The maximum height for all buildings and structures shall be forty-five (45) feet.

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## CHAPTER 10

### MANUFACTURED HOME PARK DISTRICT (MHP)

#### Section 1001 Intent

The intent of the Manufactured Home Park District (MHP) is to preserve and enhance property values in the city by providing designated, distinctive areas in which manufactured homes may be situated as a residential dwelling. It is the intent that this district be a desirable, prominent area providing adequate open space and essentially the same considerations given to citizens of other residential districts.

#### Section 1003 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Manufactured Home Park District (MHP):

1. Manufactured homes, pursuant to Section 1019 (3);
2. Utility facilities; and
3. Parks.

#### Section 1005 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Manufactured Home Park District (MHP):

1. Garages;
2. Accessory buildings;
3. Home occupations;
4. Day cares, family;
5. Signs, directional on-site;
6. Signs, directional off-site;
7. Signs, real estate;
8. Signs, banner;
9. Signs, name and address plate;
10. Signs, easement and utility; and
11. Signs, flag.

Section 1007    Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Manufactured Home Park District (MHP):

1. Swimming pools;
2. Laundry facilities;
3. Self-storage warehouses;
4. Day cares, group family home;
5. Day care centers;
6. Signs, bulletin board;
7. Signs, portable;
8. Signs, ground and monument;
9. Signs, mounted wall; and
10. Towers.

Section 1009    Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 1011    Prohibited Uses and Structures

No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park.

Section 1013    Minimum Lot Requirements

1. The minimum park size is three (3) acres;
2. The minimum park width is three hundred (300) feet;
3. The minimum lot area for individual manufactured homes shall be four thousand (4,000) square feet;

4. The density of any manufactured home park shall not exceed eight (8) units per gross acre; and
5. The net density of any particular acre shall not exceed ten (10) units per net (gross reduced by required yards, streets, etc.) acre.

Section 1015 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot line. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. The minimum distance required for the separation of a manufactured home from side and rear lot lines shall be six (6) feet. In no case shall a manufactured home be closer than twelve (12) feet from another manufactured home;
2. The minimum setback distance required from a private drive or public right-of-way shall be twenty (20) feet; and
3. Accessory buildings shall not encroach on minimum yard requirements.

Section 1017 Manufactured Home Park Application Requirements

1. The applicant follows the rezoning process pursuant to Chapters 21 - 25;
2. A request for a change in zoning districts to a Manufactured Home Park District shall set forth the location and legal description of the proposed manufactured home park property;
3. Each application for a manufactured home park shall be accompanied by a detailed site development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:
  - A. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to federal and state highways, and to county, township, or city roads;
  - B. Exterior and interior property or individual lot lines with dimensions and square footage of the proposed park;
  - C. Location and dimensions of all easements and right-of-ways;
  - D. Proposed lot layout, including parking and recreational areas;
  - E. General street and pedestrian walkway plan;
  - F. General utility, water, and sewer plan with proximity and proposed connection to municipal and/or private utilities; and
  - G. Site drainage plan and development impact on culverts, etc.

4. Certification of compliance with all ordinances and regulations regarding manufactured home park licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations.

Section 1019 Manufactured Home Regulations within a Manufactured Home Park

1. Manufactured home developments should be located to avoid the need for excessive traffic movement from the park to pass through an existing single-family residential area or area suitable for future single-family residential development; and
2. Access and Street Requirements:
  - A. All manufactured home spaces must be served from internal private streets within the manufactured home park and there shall be no direct access from a manufactured home space to a public street or alley;
  - B. Internal private streets must be graveled at a minimum and kept in good repair to prevent excessive potholes or pooling of water;
  - C. A minimum of two (2) off-street parking spaces shall be provided for each manufactured home lot; guest parking of one (1) parking space per five (5) manufactured home spaces shall be interspersed throughout the manufactured home park;
  - D. No internal private street access to public streets shall be located closer than one hundred (100) feet to any public street intersection;
  - E. Stop signs shall be placed at all public street intersections and Yield signs placed appropriately on internal private streets;
  - F. Entrance to manufactured home parks shall have direct connections to a public road and shall be designed to allow free movement of traffic on such public roads; and
  - G. Streets should be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of street with twelve (12) feet minimum moving lanes for collector streets, twelve (12) feet minimum moving lanes for minor streets, and eight (8) feet minimum lanes for parallel parking.

3. Other Requirements:

- A. Manufactured homes may be of single or multiple sections and shall not be less than fourteen (14) feet as assembled on the site, as measured across the narrowest portion;
- B. Provided with skirting material, which is not highly combustible and installed around the perimeter of the home from the bottom of the manufactured home to the ground;
- C. The hitch shall be removed;
- D. All electric service shall be underground;
- E. Each manufactured home lot shall be connected to the City of Chamberlain water and sewer systems with individual utility service lines and valves as approved by the City Engineer;
- F. If individual collection points are not available, each manufactured home park shall provide screened areas or enclosed containers accessible for refuse collection of an adequate size for the number of units served, and shall provide for the disposal of such refuse on a regularly scheduled basis;
- G. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design;
- H. Not less than ten (10) percent of the gross site area shall be devoted and maintained as recreational facilities for occupant needs;
- I. No manufactured home shall occupy more than fifty (50) percent of the area of the lot on which it is situated;
- J. A landscaped buffer area of twelve (12) feet in width shall be provided and maintained around the perimeter of the park, except where walks and drives penetrate the buffer;
- K. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards; and
- L. Additional development requirements may be prescribed as conditions for approval when determined to be necessary to ensure protection of the neighboring property's character, compatibility with land uses, and health and safety of manufactured home park occupants.

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## CHAPTER 11

### DOWNTOWN COMMERCIAL DISTRICT (C-1)

#### Section 1101 Intent

The intent of the Downtown Commercial District (C-1) is to provide a downtown commercial area for businesses which provide community and trade area services.

#### Section 1103 Principal Permitted Uses and Structures

The following principal uses and structures shall be permitted in a Downtown Commercial District (C-1):

1. Retail sales;
2. Financial institutions;
3. Service establishments;
4. Clubs;
5. Financial services;
6. Governmental services;
7. Clinics;
8. Bars;
9. Restaurants;
10. Heating, ventilating, air-conditioning service and sales;
11. Theaters;
12. Electronic media studios;
13. Arcades;
14. Health and fitness clubs;
15. Rent-all shops;
16. Secondhand shops;
17. Video rental shops;
18. Utility facilities;

19. Offices; and
20. Parking spaces.

Section 1105 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Downtown Commercial District (C-1):

1. Signs, exterior on-site;
2. Signs, directional on-site;
1. Signs, directional off-site;
3. Signs, real estate;
4. Signs, bulletin board;
5. Signs, banner;
6. Signs, name and address plate;
7. Signs, mounted wall;
8. Signs, easement and utility; and
9. Signs, flag.

Section 1107 Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Downtown Commercial District (C-1):

1. Dwellings, single-family;
2. Apartments, second story or above;
3. Towers;
4. Pawn shops;
5. Signs, projecting;
6. Signs, roof;
7. Signs, portable; and
8. Signs, ground and monument.

Section 1109 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 1111 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1109 shall be prohibited.

Section 1113 Minimum Lot Requirements

1. The minimum lot width shall be twenty-five (25) feet; and
2. The minimum lot depth shall be one hundred (100) feet.

Section 1115 Minimum Yard Requirements

The Downtown Commercial District (C-1) shall be exempt from yard requirements except where the District abuts a Residential District. In such cases:

1. There shall be an open space of not less than a depth of twenty (20) feet as measured to the front building line;
2. There shall be an open space of not less than a depth of six (6) feet as measured to the rear building line except when bordering an alley; and
3. There shall be open spaces of not less than a depth of six (6) feet, up to twenty (20) feet on corner lots at the Board's discretion, as measured from the side building lines. The Board shall base its determination upon the prevailing neighborhood patterns and public safety.

Section 1117 Maximum Height

The maximum height of structures shall be forty-five (45) feet.

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## **CHAPTER 12**

### **COMMERCIAL DISTRICT (C-2)**

#### **Section 1201    Intent**

The intent of the Commercial District (C-2) is to provide a commercial use other than the downtown main commercial district, without the large setbacks of a Highway Commercial District.

#### **Section 1203    Principal Permitted Uses and Structures**

The following principal uses and structures shall be permitted in a Commercial District (C-2):

1. Retail sales;
2. Financial institutions;
3. Service establishments;
4. Clubs;
5. Financial services;
6. Governmental services;
7. Hospitals;
8. Clinics;
9. Bars;
10. Restaurants;
11. Gasoline stations;
12. Heating, ventilating, air-conditioning sales and service;
13. Theaters;
14. Electronic media studios;
15. Arcades;
16. Health and fitness clubs;
17. Utility facilities;

18. Secondhand shops;
19. Thrift shops;
20. Offices;
21. Bowling alleys;
22. Parking spaces;
23. Veterinary clinics;
24. Funeral homes;
25. Day care centers;
26. Day cares, family;
27. Day cares, group family home; and
28. Food product processing facilities.

Section 1205 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Commercial District (C-2):

1. Signs, exterior on-site;
2. Signs, directional on-site;
3. Signs, directional off-site;
4. Signs, real estate;
5. Signs, bulletin board;
6. Signs, banner;
7. Signs, name and address plate;
8. Signs, mounted wall;
9. Signs, easement and utility; and
10. Signs, flag.

Section 1207 Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Commercial District (C-2):

1. Dwellings, single-family;
2. Apartments, second story and above;
3. Nursing, rest, and convalescent homes;
4. Lockers;
5. Self-storage warehouses;
6. Pawn shops;
7. Signs, off-site;
8. Signs, projecting;
9. Signs, roof;
10. Signs, portable;
11. Signs, ground and monument; and
12. Towers.

Section 1209 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 1211 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1209 shall be prohibited.

Section 1213 Minimum Lot Requirements

1. The minimum lot area shall be five thousand (5,000) square feet;
2. The minimum lot width shall be fifty (50) feet; and
3. The minimum lot depth shall be one hundred (100) feet.

Section 1215   Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot line. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. There shall be an open space of not less than a depth of twenty (20) feet as measured to the front building line;
2. There shall be an open space of not less than a depth of six (6) feet as measured to the rear building line; and
3. There shall be open spaces of not less than a depth of six (6) feet, up to twenty (20) feet on corner lots at the Board's discretion, as measured from the side building lines.

Section 1217   Maximum Height

The maximum height of structures shall be forty-five (45) feet.



## CHAPTER 13

### HIGHWAY COMMERCIAL DISTRICT (C-3)

#### Section 1301 Intent

The intent of the Highway Commercial District (C-3) is to provide for a commercial area for those businesses which normally function with and need major highway access.

#### Section 1303 Principal Permitted Uses and Structures

The following principal uses and structures shall be permitted in a Highway Commercial District (C-3):

1. Car washes;
2. Bus depots;
3. Contract construction services;
4. Agricultural services and sales;
5. Agricultural chemical sales and applications;
6. Lumber yards;
7. Plumbing services;
8. Heating, ventilating, and air-conditioning services;
9. Truck or equipment terminals;
10. Veterinary clinics;
11. Veterinary services;
12. Wholesale sales;
13. Greenhouses, commercial;
14. Arcades;
15. Motels;
16. Hotels;
17. Open sales areas;
18. Gasoline stations;

19. Convenience stores;
20. Garages, public;
21. Repair shops, motor vehicle;
22. Repair shops, auto-body;
23. Retail sales;
24. Rent-all shops;
25. Exhibition areas;
26. Self-storage warehouses;
27. Lockers;
28. Utility facilities;
29. Restaurants;
30. Restaurants, drive-ins;
31. Theaters;
32. Theaters, drive-in; and
33. Food product processing facilities.

Section 1305 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Highway Commercial District (C-3):

1. Dwelling units as accessory uses to the principal use;
2. Signs, exterior on-site;
3. Signs, directional on-site;
4. Signs, directional off-site;
5. Signs, real estate;
6. Signs, bulletin board;
7. Signs, banner;
8. Signs, name and address plate;

9. Signs, mounted wall;
10. Signs, easement and utility; and
11. Signs, flag.

Section 1307 Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Highway Commercial District (C-3):

1. Dwellings, single-family;
2. Warehouses;
3. Outdoor storage areas, pursuant to Section 1733;
4. Campgrounds;
5. Amusement parks;
6. Arcades;
7. Commercial outdoor recreation facilities;
8. Towers;
9. Security dwelling units;
10. Signs, projecting;
11. Signs, roof;
12. Signs, off-site;
13. Signs, portable; and
14. Signs, ground and monument.

Section 1309 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 1311 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1209 shall be prohibited.

Section 1313 Minimum Lot Requirements

1. The minimum lot area shall be ten thousand (10,000) square feet; and
2. The minimum lot width shall be one hundred (100) feet.

Section 1315 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot line. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. There shall be a front yard of not less than a depth of forty (40) feet;
2. There shall be a rear yard of not less than a depth of ten (10) feet; and
3. Each side yard shall not be less than ten (10) feet.

Section 1317 Maximum Height

The maximum height of structures shall be forty-five (45) feet.

## CHAPTER 14

### INDUSTRIAL DISTRICT (I)

#### Section 1401    Intent

This intent of the Industrial District (I) is to provide for the future development of new industrial and certain commercial activities in areas where municipal utilities are most readily available and in areas where ingress and egress can be provided in a safe and convenient manner. The activities located in this district should be engaged in either manufacturing or wholesale commercial trade.

#### Section 1403    Principal Permitted Uses

The following principal uses and structures shall be permitted in an Industrial District (I):

1. Truck or equipment terminals;
2. Wholesale sales;
3. Warehousing;
4. Manufacturing;
5. Food product processing facilities;
6. Agriculture product processing facilities;
7. Fertilizer production or processing;
8. Agricultural chemical sales and applications;
9. Concrete plants;
10. Asphalt plants;
11. Cement or clay products manufacturing;
12. Tank farms;
13. Machine shops;
14. Truck or equipment repair;
15. Beverage bottling or distribution;
16. Grain elevators;
17. Lockers;

18. Outdoor storage areas;
19. Junkyards;
20. Salvage yards;
21. Recycling centers; and
22. Utility facilities.

Section 1405 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in an Industrial District (I):

1. Signs, exterior, on-site;
2. Signs, directional on-site;
3. Signs, directional off-site;
4. Signs, real estate;
5. Signs, bulletin board;
6. Signs, banner;
7. Signs, name and address plate;
8. Signs, mounted wall;
9. Signs, easement and utility;
10. Signs, flag; and
11. Outdoor storage areas, pursuant to Section 1733.

Section 1407 Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in an Industrial District (I):

1. Security dwelling units;
2. Schools, trade or commercial;
3. Restaurants, in-house;
4. Bars;
5. Signs, projecting;

6. Signs, roof;
7. Signs, off-site;
8. Signs, portable;
9. Signs, ground and monument; and
10. Towers.

Section 1409 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 1411 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1409 shall be prohibited.

Section 1413 Minimum Lot Requirements

1. The minimum lot area shall be twenty five thousand (25,000) square feet; and
2. The minimum lot width shall be two hundred fifty (250) feet.

Section 1415 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot line. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. There shall be a front yard of not less than a depth of forty (40) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet; and
3. Each side yard shall not be less than twenty (20) feet.

Section 1417 Maximum Height

The maximum height of structures shall be forty-five (45) feet.

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## CHAPTER 15

### PUBLIC/SEMI-PUBLIC DISTRICT (P)

#### Section 1501   Intent

The intent of the Public/Semi-Public District (P) is to provide for city, county, state, and federal uses within the corporate limits. No private property can be zoned Public/Semi-Public. Whenever an entity abandons or vacates use of this area, it would need to be rezoned before any other uses could be permitted.

#### Section 1503   Principal Permitted Uses

The following principal uses and structures shall be permitted in a Public/Semi-Public District (P):

1. Utility facilities;
2. Parks;
3. Golf courses;
4. Plazas; and
5. Swimming pools.

#### Section 1505   Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Public/Semi-Public District (P):

1. Signs, directional on-site;
2. Signs, directional off-site;
3. Signs, mounted wall;
4. Signs, real estate;
5. Signs, bulletin board;
6. Signs, name and address plate;
7. Signs, easement and utility; and
8. Signs, flag.

Section 1507 Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Public/Semi-Public District (P):

1. Public buildings;
2. Schools, public;
3. Outdoor storage areas, pursuant to Section 1733;
4. Offices;
5. Museums;
6. Recycling centers;
7. Restricted use sites;
8. Signs, exterior on-site;
9. Signs, banner;
10. Signs, portable;
11. Signs, ground and monument; and
12. Towers.

Section 1509 Minimum Lot Requirements

The governmental owner shall make an effort to conform to the applicable zoning regulations, which pertain to the abutting properties.

Section 1511 Minimum Yard Requirements

The governmental owner shall comply with the prevailing setbacks of the abutting properties and neighborhood.

Section 1513 Maximum Height

The maximum height of structures shall be forty-five (45) feet.

## CHAPTER 16

### PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

#### Section 1601 Intent

The provisions of this article are to be applied in instances where tracts of land of considerable size are developed, redeveloped or renewed as integrated and harmonious units, and where the overall design of such units is so outstanding as to warrant modification of the standards contained elsewhere in this ordinance. A planned development, to be eligible under this Article, must be:

1. In accordance with the comprehensive plans of the City, including all plans for redevelopment and renewal;
2. Composed of such uses, and in such proportions, as are most appropriate and necessary for the integrated functioning of the planned development and for the City;
3. So designed in its space allocation, orientation, texture, materials, landscaping and other features as to produce an environment of stable and desirable character, complementing the design and values of the surrounding neighborhood, and showing such unusual merit as to reflect credit upon the developer and upon the City; and
4. A minimum of five (5) acres in land area.

#### Section 1603 Application Procedure

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit to the Planning Commission a plan for the proposed planned development unit. The plan shall indicate:
  - A. The location and extent of the proposed planned development unit, including its relationship to surrounding properties;
  - B. The exact nature and extent of improvements to be developed or erected upon the tract, including contoured site plans, building plans and elevations, and plans for landscaping and paved areas, transportation patterns, and public utilities such as water and sewer services; and
  - C. Such other information as may be required by the Planning Commission to determine if the proposed planned development unit is consistent with the intent of the district.
2. The Planning Commission shall, within sixty (60) days of receiving the plan for the proposed development unit, consider such plan at a minimum of one regular Planning Commission meeting. Upon consideration, the Planning Commission shall inform the applicant in writing of its approval or denial of the plan. In the event of denial, the Planning Commission shall inform the applicant of the reason(s) for

denial, including any recommended modifications in the plan, which would cause the Planning Commission to reconsider.

3. Upon approval of the plan by the Planning Commission, it shall forward its written recommendations to the City Council along with a copy of the approved plan, that the tract be designated a Planned Unit Development District (PUD) by amendment of the Official Zoning Map.
4. Upon receiving the Planning Commission's written recommendation, the City Council shall consider the amendment of the Official Zoning Map as provided elsewhere in this Article.
5. Following the amendment of the Official Zoning Map by the City Council, the City Zoning Administrator may, upon proper application, issue a building permit for construction of the planned development unit in accordance with the approved plan.

Section 1605 Subsequent Performance

Following issuance of a building permit for the planned development unit by the Zoning Administrator, the applicant shall begin construction within a period of six (6) months. Failure to do so shall invalidate the building permit. Construction shall follow precisely the plan approved by the Planning Commission to which modifications may be granted only by the Planning Commission upon the filing of an amended plan. Failure to follow the approved plan on the part of the applicant or his/her agent shall be considered a violation of this ordinance punishable as herein prescribed.

## CHAPTER 17

### SUPPLEMENTARY DISTRICT REGULATIONS

#### Section 1701 Sight Triangle

On a corner lot, in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.

#### Section 1703 Fences, Walls, and Hedges

Notwithstanding other provisions of this ordinance, walls, hedges, or other vegetation may be permitted in any required yard, or along the edge of any yard, provided that no wall, hedge, or other vegetation shall be permitted to materially impede vision across such yard between the height of thirty (30) inches to ten (10) feet.

Fences in the front yard:

1. Shall be approved by the Zoning Administrator prior to construction;
2. Shall not exceed four (4) feet in height; and
3. Shall be constructed of a material that does not impede motorist's vision.

Fences, walls, and hedges built or planted in side and rear yards:

1. Within the Agriculture, Residential, and Manufactured Home Park Districts, shall not exceed six (6) feet in height; and
2. Within the Commercial, Industrial, and Public/Semi-Public Districts, shall not exceed eight (8) feet in height and shall have written approval by the Zoning Administrator prior to construction.

Fences constructed on property abutting an arterial street shall be set back ten (10) feet from the property line.

Fences shall be constructed of appropriate material including chain link, wood, vinyl, or wire and shall be neat and presentable. Fences shall be constructed with the most visibly pleasing side facing the right-of-way or adjacent property.

Outdoor storage areas, as defined herein, shall be enclosed by an opaque fence or planted screen with a minimum height of six (6) feet. Said fence or screening shall not exceed eight (8) feet in height as measured from the prevailing grade.

Fences constructed for the purpose of screening garbage bins or dumpsters shall not exceed six (6) feet in height and shall be constructed of an opaque material or chain link with slats. Said fence shall comply with applicable yard requirements.

This section shall not apply to those entities where safety and controlled access regulations require fencing exceeding these standards. However, said entities shall have written approval by the Zoning Administrator prior to construction.

Section 1705    Accessory Buildings and Structures

All accessory buildings, including but not limited to greenhouses and playground equipment, shall meet the setbacks for the district in which it is located.

Section 1707    Erection of More than One Principal Structure on a Lot

In any district, more than one (1) structure housing a permitted or permissible principal use may be erected on a single lot, provided, that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

Section 1709    Structures to Have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Section 1711    Parking, Storage, or Use of Major Recreational Equipment

Major recreational equipment shall not be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or any location not approved for such use.

Section 1713    Parking and Storage of Certain Vehicles

Automotive vehicle or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

Section 1715    Parking Lots

Parking lots, meeting the minimum off-street parking requirements as described herein, shall be adjacent to the structure it serves and shall meet the requirements that include vehicular access to a street or alley, and two hundred fifty (250) square feet of parking space per vehicle.

Section 1717    Moving of Structures

All structures moved into the corporate limits of Chamberlain shall conform to the applicable local, state, and national health and safety standards.

5. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than twenty-four (24) feet, as measured across the narrowest portion;
6. The manufactured home shall have the long axis of the home parallel to the street;
7. The running gear and hitch shall be removed;
8. A home shall be anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design;
9. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards; and
10. Prior to placement of home on the foundation, the foundation must be inspected and approved by the City Zoning Administrator or their designee.

Section 1727 Existing Trailer Park Performance Standards

Prior to any changes, replacement, modification, addition, or increase to any existing Trailer Parks, as defined herein, the owner of said property shall provide a site plan and individual utility service lines and valves, as approved by the City Engineer.

In addition, existing Trailer Parks shall comply with the following standards:

1. The trailer, mobile home, or manufactured home shall be located no closer than six (6) feet from the lot line;
2. In no case shall an exterior edge of a mobile home be closer than twelve (12) feet from any other trailer, mobile home, or manufactured home; and
3. Accessory structures shall be located no closer than three (3) feet from the lot line.

Section 1729 Kennels

Prior to development the owner shall secure signatures, by petition, of all owners of occupied dwellings, modular homes or manufactured homes within one-half (½) mile of the proposed kennel.

Section 1731 Floodway

The purpose of this Section is to protect open spaces and natural drainage courses in their capacity to carry runoff water and to limit uses of land in areas subject to flooding and prevent the destruction or pollution of valuable and irreplaceable natural resources and prevent encroachment of uses which would reduce the future potential of these resources.

Section 1719 Temporary Buildings

Temporary buildings for uses incidental to construction work provided such buildings are removed promptly upon termination of construction work.

Section 1721 Unique Lot Requirements

1. Through lots - In the case of through lots, the front yards on either side of the block will match the prevailing yard patterns on each side of the block that the lot faces on. The administrative official may waive the requirement for the normal front yard and substitute a special yard requirement, which shall not exceed the average of the yards, provided on adjacent lots.
2. Corner lots - In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of the depth required generally for front yards in the district shall be provided on the other frontage or prevailing frontage on that street.
3. Reversed frontage lots - In the case of reversed frontage corner lots, a front yard of required depth shall be provided on either frontage, and a second front yard, of the depth required generally for front yards in the district, shall be provided on the other frontage.

Section 1723 Temporary Manufactured Homes

No manufactured home shall be parked and occupied in any unauthorized district for more than forty-eight (48) hours except upon a special permit issued by the Zoning Administrator. Such permit shall not be renewable within the same calendar year. Provided, however, a permit may be issued for parking and occupying a manufactured home on land owned by the occupant or occupants, during the construction of a house thereon for a period not exceeding one hundred eighty (180) days. However, if material progress with house construction is not made within forty-five (45) days from the issuance of a permit, or if construction work ceases for a consecutive period of forty-five (45) days, said permit shall become void.

Section 1725 Manufactured Home Performance Standards

Manufactured homes sited within a Residential District shall comply with the following conditions:

1. The pitch of the main roof shall be not less than three (3) inches of rise for each twelve (12) inches of horizontal run;
2. The roof shall be shingled with conventional roofing product;
3. The exterior walls shall be encased with conventional house siding (flat or corrugated sheet metal is prohibited);
4. A masonry foundation shall form a complete enclosure under the exterior walls;



Section 1733   Outdoor Storage Areas

Outdoor storage areas as defined herein shall be enclosed by an opaque fence or planted screen with a minimum height of six (6) feet. Said fence or screening shall not exceed eight (8) feet in height as measured from the prevailing grade. This section shall not apply to those entities where safety and controlled access regulations require fencing exceeding these standards. Prior to construction, all fencing and screening materials shall be reviewed by the Zoning Administrator and approved by the Planning Commission.

Section 1735   Campgrounds

Campgrounds shall be on lots of three (3) acres provided adequate public utilities are available to the site.

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## CHAPTER 18

### SIGNS

#### Section 1801 Sign Regulations

1. Signs shall conform to state law when along the state and federal primary highway system;
2. All signs shall be maintained in a neat and presentable condition and in the event they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free of refuse and debris within fifteen (15) days or be subject to a penalty as set forth in Chapter 26 of this ordinance;
3. Signs bearing only property numbers, mailbox numbers, names of occupants of premises, or other identification of premises not having commercial connotations shall not exceed two (2) square feet in area;
4. Flags and insignia of any government are allowed except when displayed in connection with commercial promotion;
5. Legal notices posted in required place(s) shall be removed within seven days of expiration;
6. Real estate signs shall be removed upon the rental/lease or sale closing of the dwelling unit or units;
7. Projecting signs attached to a building shall not project above the height of the building, shall not extend more than six (6) feet from the face of the building, and shall not extend closer than one (1) foot from the current right-of-way line;
8. Mounted wall signs placed against the exterior walls of buildings shall not extend more than twelve (12) inches beyond the surface of the building's wall and shall not exceed twenty (20) feet in height above the mean centerline street grade nor shall such sign break the plane of the roofline;
9. Projecting signs fastened to or suspended from structures:
  - A. Shall not extend more than six (6) feet into any required yard;
  - B. Shall not extend more than six (6) feet into any public right of way;
  - C. Shall not be less than ten (10) feet from all side lot lines;
  - D. Shall not exceed a height of twenty (20) feet above the mean centerline street grade;

- E. Shall be a minimum of eight (8) feet above the mean centerline street grade; and
  - F. Shall be a minimum of fifteen (15) feet above the mean centerline of a driveway or alley.
10. Roof signs shall not exceed ten (10) feet in height above the roof; shall meet all the yard and height requirements for the district in which it is located; and shall not exceed three hundred (300) square feet on all sides for any one premise;
11. The City of Chamberlain reserves the right to expand right-of-ways. In such a case, the removal, modification, or replacement of a sign that intrudes upon the right-of-way clear zone, as defined in Section 1801(7), shall be the responsibility of the affected business; and
12. Where necessary, the city reserves the right to combine sign terminology with regard to regulations and enforcement. More restrictive requirements shall supercede the inferior language.

Section 1803 Sign as Obstruction or Deception

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

Section 1805 Nonconforming Signs

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform to the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure as described in Chapter 20.

## CHAPTER 19

### PARKING

#### Section 1901 Intent

The intent of this district is to provide for adequate off-street parking to lessen congestion of vehicular traffic on public streets and to insure the safety of pedestrian traffic.

In all districts, for every use, at the time any building or structure is erected, enlarged, or increased in capacity, or at the time any other use is established, off-street parking shall be constructed or established in accordance with the provisions specified herein.

Off-street spaces shall be adjacent or abutting to the structure it serves and shall meet the requirement described in Chapter 18. Each parking space shall be a minimum of two hundred (200) square feet and each lot shall include vehicular access to a street or alley. Off-street parking spaces shall not impede upon any maneuvering lane. All off-street parking areas and spaces shall be designed and constructed to allow ingress and egress to a public street at all times.

#### Section 1903 Required Off-Street Parking - Dwellings

1. Dwelling, single-family: two (2) spaces;
2. Dwelling, two-family: four (4) spaces;
3. Dwelling, three-family: six (6) spaces;
4. Dwelling, four-family: eight (8) spaces; and
5. Multiple dwellings: one and one-half (1½) spaces per dwelling unit in building.

#### Section 1905 Required Off-Street Parking - Gathering Facility

1. Churches: one (1) space for each six (6) seats in principal assembly area;
2. Schools, public, private, and denominational: one (1) space for each classroom plus one (1) space for each six seats in auditorium or stadium;
3. Parks, stadiums, and theaters: one (1) space for each six (6) seats in grandstand or stadium; eight (8) spaces per acre if a family picnic area; twenty (20) spaces per acre if a group picnic area; none required for playgrounds or playfields; and
4. Funeral homes: one (1) space for each fifty (50) square feet of parlor area.

Section 1907 Required Off-Street Parking - Medical Facilities

1. Hospitals: two (2) spaces for each licensed bed;
2. Clinics: one (1) space for each one hundred (100) square feet of floor area;
3. Nursing, rest, and convalescent homes: one (1) space for each one (1) bed; and
4. Congregate, residential care facility: one (1) space for each one (1) bed.

Section 1911 Required Off-Street Parking - Manufacturing

1. Four (4) spaces plus one (1) for each one thousand (1,000) square feet of manufacturing space; or
2. One (1) for each two (2) employees (maximum on duty for any shift), whichever is greater.

Section 1913 Required Off-Street Parking – Governmental and Public

1. All parking must be allowed for off street; and
2. Public use buildings: one space for each 300 feet of floor area.

Section 1915 Required Off-Street Parking - Retail Sales

One (1) space for each two hundred (200) square feet of sales floor area.

Section 1917 Required Off-Street Parking - Warehousing

One (1) space for each one thousand (1,000) square feet of floor space.

## CHAPTER 20

### NONCONFORMING USES

#### Section 2001    Intent

Within the districts established by this Ordinance or amendments that may later be adopted, there exists (a) lots, (b) structures, (c) uses of land and structures, and (d) characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

It is the intent to permit these non-conformities to continue until they are removed. Further, non-conformities shall not be enlarged upon, expanded, extended, nor be used as grounds for adding other prohibited structures or uses elsewhere in the same district.

Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this revised Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

#### Section 2003    Nonconforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and its customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fail to meet requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

Variance of other yard requirements shall be obtained in accordance with the provisions of this ordinance.

Section 2005 Nonconforming Uses of Land (or Land with Minor Structures Only)

Where at the time of passage of this revised Ordinance lawful use of land exists, which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding one thousand (1,000) dollars, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases, for any reason, for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
4. No additional structure, failing to conform to the requirements of this Ordinance, shall be erected in connection with such nonconforming use of land.

Section 2007 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance, that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way, which increases its nonconformity, but any structure, or portion thereof, may be altered to decrease its nonconformity;
2. Should such nonconforming structure, or nonconforming portion of structure, be destroyed by any means, to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance; and
3. Should such structure be moved for any reason or distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 2009 Nonconforming Uses of Structures or of Structures and Premises in Combination

If the nonconforming use involving individual structures with a replacement cost of one thousand (1,000) dollars or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the nonconforming use may be continued so long as it remains otherwise lawful, subject to the following provisions:



1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structure and premises may, as a conditional use, be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance;
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of more than one (1) year (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
6. Where nonconforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the nonconforming status of the land.

Section 2011    Uses under Conditional Use Provisions are Conforming Uses

Any use, which is permitted as a conditional use in a district, under the terms of this Ordinance, shall be deemed a conforming use in such district without further action. A nonconforming use can never be allowed in a defined district without a change in the district definition or boundaries.

Permitted Principal Uses	Conditional Uses	Nonconforming
Allowed within defined district.	Allowed within defined district AFTER Board grants permission.	Never allowed in defined district without change in district definitions or boundaries.

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## CHAPTER 21

### ADMINISTRATION PROCEDURE AND ENFORCEMENT

#### Section 2101 City of Chamberlain Zoning Administrator

An administrative official who shall be known as the Zoning Administrator and who shall be nominated by the Mayor and appointed by the City Council shall administer and enforce this ordinance. They may be provided with the assistance of such other persons as the City Council may direct.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, they shall notify, in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. They shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by the ordinance to insure compliance with or to prevent violation to its provisions. The Zoning Administrator shall report all actions to the City Council at the next general meeting of the Council.

#### Section 2103 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Zoning Administrator or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises an ordinance violation, the Zoning Administrator or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Zoning Administrator by this ordinance, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Zoning Administrator or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Zoning Administrator or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Zoning Administrator or an authorized representative for the purpose of inspection and examination pursuant to this ordinance.

#### Section 2105 City of Chamberlain Planning Commission

The City of Chamberlain City Council shall appoint a Planning Commission, the total membership of which shall be an uneven number. The term of each of the appointed members of the Planning Commission shall be for a set period of time. When the Planning Commission is first appointed the lengths of the terms should be varied so that no more than two (2) terms shall expire in the same year. Meetings shall be regularly scheduled and held at the call of the Chairperson and at such other times as the Planning Commission may determine. The Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public, except as provided by SDCL 1-25-5.

Upon notification of a request for a variance or conditional use or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 2309 (3-5). Any person may appear and request or protest the proposed change.

Upon notification of a request for amendment or rezoning or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 2503 (1-3). Any person may appear and request or protest the proposed change.

The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

The Planning Commission shall keep a record of all proceedings, including minutes, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed with the City Finance Officer within two (2) days. The Planning Commission shall adopt from time to time, subject to the approval of the City Council, rules and regulations as it may deem necessary for the conduct of its affairs and to carry the appropriate provisions of this ordinance into effect. The Commission shall be compensated for their service as determined by the City Council.

#### Section 2107 City of Chamberlain Board of Adjustment

The City of Chamberlain City Council shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear and render a decision on all requests for variances, conditional uses, and zoning appeals. The Board of Adjustment may, in specific cases to avoid unwarranted hardship which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, make upon an affirmative vote of two-thirds (2/3) of the full membership of the Board of Adjustment, conditional uses or grant variances to the terms of this ordinance, subject to appropriate conditions or safeguards being adopted by the City Council.

The City Council shall designate an individual to act as secretary to the Board of Adjustment when acting in zoning cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning cases shall be held at the call of the Chairperson and at such other times, as the Board shall determine. Such Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

All meetings of the Board of Adjustment shall be open to the public. Those meetings designated as public hearings shall allow for testimony from all interested parties. The Board, acting in zoning cases, shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Finance Officer and shall be a public record. The Board of Adjustment, acting in zoning cases, shall adopt from time to time, subject to the approval of the City Council, such rules and regulations as it may deem necessary to carry the appropriate provisions of this ordinance into effect.

Section 2109 City of Chamberlain City Council

The City Council may amend, supplement, change, modify, or repeal any regulation, restriction, boundary, or enforcement provision established in the zoning ordinance or adjuncts thereto. The City Council shall forward a copy of the proposed changes to the Planning Commission for public review. Upon receipt of the comments from the Planning Commission the City Council shall publish a notice of public hearing pursuant to the applicable standards within Section 2503 (1-3). The City Council shall thereafter either adopt or reject such amendment, supplement, change, modification, or repeal. If adopted, the City Council shall direct the Planning Commission to prepare the entire text or map revisions as amended for publication. Upon completion of the amended text or map revisions, the city attorney shall review the same and direct the City Finance Officer to have said language published once in a legal newspaper of the municipality and take effect on the twentieth day after its publication.

Section 2111 Building Permits Required

Building permits are required in the following instances:

1. For any structure/building in which the building/structure is erected, partially erected, demolished, moved, added to, or structurally altered; or
2. For any structure or building, regardless of cost, if additional land or area is required for the improvements to be sited on.

No construction shall commence on any building or structure, which meets any one (1) of the above criteria without a permit therefore, issued by the Zoning Administrator. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance, unless they received a written order from the City Council in the form of an administrative review, conditional use, or variance as provided by this Ordinance.

Section 2113 Applications for Building Permits, Conditional Uses, and Variances

All applications for building permits, conditional uses and variances must be signed or approved in writing by the owner of record. In the event the owner of record has a binding purchase agreement contingent on the approval of the building permit, conditional use or variance the potential purchaser may submit and sign all documents required for application. All applications for building permits shall be accompanied by a site plan.

The site development plan shall be drawn to scale and indicate the following:

1. Location and topography of the proposed structure(s), including adjacent property owners and proximity to federal, state highways, and to county, township or city roads;
2. A north arrow;
3. The actual dimensions and shape of the lot to be built upon;
4. The exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration;

5. Property lines and square footage of the proposed structure(s);
6. Location and dimensions of all easements and right-of-ways;
7. General street and pedestrian walkway plan;
8. General utility, water, and sewer plan with proximity and proposed connection to municipal utilities; and
9. Site drainage plan and development impact on culverts, etc.

Refer to document entitled Site Plan Requirements for a detailed example of a site plan.

The application shall include such other information as lawfully may be required by the Zoning Administrator. One (1) copy of the application shall be returned to the applicant by the Zoning Administrator after they shall have marked such copy either as approved or disapproved and attested to same by their signature on such copy.

If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The Zoning Administrator shall retain the original and one (1) copy of the application, similarly marked. The issuance of a building permit shall in no case be construed as waiving any provisions of this Ordinance.

#### Section 2115 Expiration of Building Permits, Conditional Uses and Variances

If the work described in any building permit, conditional use or variance has not begun within ninety (90) days or been completed within two (2) years from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a renewed permit has been obtained at no additional cost unless substantial changes have been made to the initial permit application.

#### Section 2117 Construction and Use to be as Provided in Applications and Permits

Building permits issued on the basis of applications approved by the Zoning Administrator authorized only the use, arrangement, and construction set forth in such approved application and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by this Ordinance.

#### Section 2119 Building and Zoning Permit Fees

All building and zoning permits shall be obtained by application of the owner or builder and shall give an estimate of the value of construction or repair and initial fees shall be based on such estimate; provided that if, at the completion of said construction or repair, the estimate cost as given in the application appears inadequate to the Zoning Administrator, they may request bills or receipts to substantiate such value and additional fees may be assessed accordingly. It is the owner's and builder's responsibility to obtain a permit prior to construction on property owned or leased.

Section 2121 Schedule of Fees, Charges, and Expenses

The City of Chamberlain City Council shall establish a schedule of fees, charges, deposits, and expenses and a collection procedure for variances, conditional uses, amendments, appeals, building permits and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the City Council. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 2123 Building Permit in Conspicuous Places

All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction or work described. Granting of Building Permits may be published in the city's official newspaper.

Section 2125 Bad Actor Legislation

The City of Chamberlain City Council may reject an application for any permit filed for a variance, conditional use or otherwise for the reasons and on the grounds set forth in SDCL 1-40-27, as revised and amended. Such rejection shall be based upon a specific finding by the Council that the applicant has engaged in the activity identified in the aforesaid statute. The burden on the Council to make the specific finding provided for herein shall be by a preponderance of the evidence.

For purposes of this Section a person shall be deemed an applicant if they are the owner of the proposed facility; an officer or director of the owner thereof; or an owner of any interest in any company except a publicly traded company which is the owner of the proposed facility.

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## CHAPTER 22

### PLANNING COMMISSION

#### Section 2201 Members, Terms, Meetings, and Rules

The Mayor of the City of Chamberlain shall nominate and the City Council shall appoint a Planning Commission, which shall be an uneven number. The term of each of the appointed members of the Planning Commission shall be for a set period of time. When the Planning Commission is first appointed the lengths of the terms should be varied so that no more than two (2) terms shall expire in the same year.

Meetings shall be regularly scheduled and held at the call of the Chairperson and at such other times as the Planning Commission may determine. The Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public, except as provided by SDCL 1-25-5.

The Planning Commission shall keep a record of all proceedings, including minutes, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed with the City Finance Officer within two (2) days. The Planning Commission shall adopt from time to time, subject to the approval of the City Council, rules and regulations as it may deem necessary for the conduct of its affairs and to carry the appropriate provisions of this ordinance into effect. The Commission shall be compensated for their service as determined by the City Council.

#### Section 2203 Conditional Uses

The Planning Commission shall have the power to review, in accordance with the provisions of this ordinance, requests for conditional uses or for decisions upon other special questions upon which the Planning Commission is authorized by this ordinance to review; to decide such questions as are involved in determining whether conditional uses should be recommended for approval; and to recommend approval of conditional uses with such conditions and safeguards as are appropriate under this ordinance, or to recommend denial of conditional uses when not in harmony with the purpose and intent of this ordinance. The Commission shall not review a conditional use unless and until all documents required for application for said use have been satisfactorily completed and all required fees have been paid in full.

The Planning Commission shall review all conditional use applications at an official public hearing of the Commission. Notice of the time and place of the hearing shall be given pursuant to Section 2309 (3-5). The Commission shall discuss each application and recommend an action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

#### Section 2205 Variances

The Planning Commission shall have the power to review requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to recommend granting of such variances only in accordance with this ordinance. The Commission shall not review a variance unless and until all documents required for application for said request have been satisfactorily completed and all required fees have been paid in full.

The Planning Commission shall review all variance applications at an official meeting of the Commission. The Commission shall discuss each application and recommend an action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

#### Section 2207 Amendments and Rezoning

Upon notification of a proposed revision, modification, change, or amendment to the zoning ordinance or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 2503 (1-3). Any person may appear and request or protest the proposed change.

The Planning Commission shall review all applications for amendments or rezones at an official public hearing of the Commission. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommendation. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

#### Section 2209 Planning Commission Hearings and Notice

Each session of the Planning Commission at which a hearing is held shall be a public meeting, except as provided by SDCL 1-25-5 with notice of hearing to be published pursuant to the applicable standards within Section 2309 (3-5).

## CHAPTER 23

### BOARD OF ADJUSTMENT APPEALS, VARIANCES AND CONDITIONAL USES

#### Section 2301 Members, Terms, Meetings, and Rules

The City of Chamberlain City Council shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all requests for variances, conditional uses, and zoning appeals. The Zoning Administrator shall act, as secretary to the Board of Adjustment when acting in zoning cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times, as the Board shall determine. Such Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

All meetings of the Board of Adjustment shall be open to the public, except as provided by SDCL 1-25-2. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Zoning Administrator within two (2) days and shall be a public record. The Board of Adjustment shall adopt from time to time, such rules and regulations, as it may deem necessary to carry the appropriate provisions of this ordinance into effect.

#### Section 2303 Appeals to Board of Adjustment, Record of Appeals, Hearing, and Stays

Any decision rendered by the Zoning Administrator may be appealed to the Board of Adjustment. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with them, that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer for whom the appeal is taken and on due cause shown.

#### Section 2305 Board of Adjustment Hearings and Notice

Each session of the Board of Adjustment at which a hearing is held shall be a public meeting, except as provided by SDCL 1-25-5 with notice of hearing to be published pursuant to the applicable standards within Section 2309 (3-5).

#### Section 2307 Board of Adjustment Appeals Process

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map. An appeal will not be heard until:

1. The applicant or any other person aggrieved by the decision of an administrative official or agency shall file a written appeal with the Zoning Administrator within five (5) working days of the decision;

2. The administrative official or agency from which the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken;
3. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the municipality;
4. Written notice shall be sent to the applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the appeal is pending, if a particular piece of property is in question. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
5. The administrative official or agency shall present their decision to the Board of Adjustment for review; and
6. The Board of Adjustment shall uphold, overrule, or amend the decision of the Zoning Administrator.

The Board of Adjustment has the powers of a Zoning Administrator on Appeals and Reversing Decision of the Zoning Administrator,

In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of two-thirds (2/3) of the full membership of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in this ordinance.

#### Section 2309 Board of Adjustment Conditional Uses Process

The Board of Adjustment shall have the power to hear and decide, in accordance with the provisions of this ordinance, requests for conditional uses or for decisions upon other special questions upon which the Board of Adjustment is authorized by this ordinance to pass; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this ordinance. A conditional use shall not be granted by the Board unless and until:

1. A written application, pursuant to Section 2113 for a conditional use is submitted, indicating the Section of this ordinance under which the conditional use is sought and stating the grounds on which it is requested;
2. The Planning Commission has reviewed the application, pursuant to Section 2203 of this Ordinance;

3. Notice of public hearing shall be given at least ten (10) days in advance by publication in a legal newspaper of the municipality;
4. Written notice of the public hearing shall be sent to the applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the conditional use is pending. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
5. A notification sign shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all along the property's street frontage so as to be visible from the street. If a property does not have a street frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;
6. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
7. The Board of Adjustment shall make a finding that it is empowered under the Section of this ordinance described in the application to grant the conditional use, grant with conditions, or deny the conditional use, and that the granting of the conditional use will not adversely affect the public interest; and
8. Before any conditional use is granted, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - B. Off-street parking and loading areas where required; with particular attention to the items in (a) above and the economic, noise, glare, odor, or other effects of the conditional use on adjoining properties and properties generally in the district;
  - C. Refuse and service areas, with particular reference to the items in (a) and (b) above;
  - D. Utilities, with reference to locations, availability, and compatibility;
  - E. Screening and buffering with reference to type, dimensions, and character;

- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- G. Required yards and other open spaces; and
- H. General compatibility with adjacent properties and other property in the district.

Section 2311 Board of Adjustment Variance Process

The Board of Adjustment shall have the power to hear requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to grant such variances only when the following provisions apply:

1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice;
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property or the intended use of the property concerned, or the intended use of the property is not of so general or recurring in nature that it is reasonably practicable to formulate a general regulation to be adopted as an amendment of this ordinance;
3. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance;
4. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application, pursuant to Section 2113, for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district;
5. The Planning Commission has reviewed the application pursuant to Section 2205 of this ordinance;

3. Notice of public hearing shall be given at least ten (10) days in advance by publication in a legal newspaper of the municipality;
4. Written notice of the public hearing shall be sent to the applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the conditional use is pending. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
5. A notification sign shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all along the property's street frontage so as to be visible from the street. If a property does not have a street frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;
6. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
7. The Board of Adjustment shall make a finding that it is empowered under the Section of this ordinance described in the application to grant the conditional use, grant with conditions, or deny the conditional use, and that the granting of the conditional use will not adversely affect the public interest; and
8. Before any conditional use is granted, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - B. Off-street parking and loading areas where required; with particular attention to the items in (a) above and the economic, noise, glare, odor, or other effects of the conditional use on adjoining properties and properties generally in the district;
  - C. Refuse and service areas, with particular reference to the items in (a) and (b) above;
  - D. Utilities, with reference to locations, availability, and compatibility;
  - E. Screening and buffering with reference to type, dimensions, and character;

- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- G. Required yards and other open spaces; and
- H. General compatibility with adjacent properties and other property in the district.

Section 2311 Board of Adjustment Variance Process

The Board of Adjustment shall have the power to hear requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to grant such variances only when the following provisions apply:

1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice;
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property or the intended use of the property concerned, or the intended use of the property is not of so general or recurring in nature that it is reasonably practicable to formulate a general regulation to be adopted as an amendment of this ordinance;
3. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance;
4. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application, pursuant to Section 2113, for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district;
5. The Planning Commission has reviewed the application pursuant to Section 2205 of this ordinance;



6. Notice of public hearing shall be given, as in Section 2309 (3-5); the public hearing shall be held. Any party may appear in person or by agent or by attorney; the Board of Adjustment shall make findings that the requirements of this Section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
7. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 2603 of this ordinance; and
8. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

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## CHAPTER 24

### DUTIES OF THE ZONING ADMINISTRATOR, PLANNING COMMISSION, CITY COUNCIL, AND COURTS ON MATTERS OF APPEAL

#### Section 2401   Duties of Zoning Administrator, Board of Adjustment and Courts on Matters of Appeal

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, then the Planning Commission, and that such questions shall be presented to the City Council only on appeal from the decision of the Planning Commission, and that recourse from the decisions of the City Council shall be to the Court of Record.

#### Section 2403   Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with them, that by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Adjustment or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

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## CHAPTER 25

### AMENDMENTS

#### Section 2501    Amendments and Rezoning

The provisions set forth in this Ordinance may, from time to time, be amended, supplemented, changed or repealed by action of the City Council or when such amendment, supplement, change, modification or repeal is requested through a petition by thirty (30) percent of the landowners in the districts requesting a change. An individual landowner may also petition the Board to change the zoning of all or any part of their property provided that such modification or repeal in each instance be proposed in an ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original ordinance.

#### Section 2503    Process

Prior to consideration of amending, supplementing, changing, modifying or repealing this ordinance by the governing body, notice of public hearings shall be provided as follows:

1. If the proposed changes affect a particular piece of property notification signs shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all along the property's street frontage so as to be visible from the street. If a property does not have a street frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;
2. At least ten (10) days before the date of the Planning Commission hearing, the City shall have published in a legal newspaper of the City, a notice of the time, place, and subject matter of such hearing;
3. If the proposed changes affect a particular piece of property written notice of the public hearing shall be sent to the applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the conditional use is pending. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
4. The Planning Commission shall hold the Public Hearing, review the proposed amendment(s) and make recommendations to the City Council;
5. The City shall provide public notification pursuant to Section 2503 (1-3) before the date of the City Council hearing;
6. The City Council shall hold the Public Hearing, review the proposed amendment(s) and by resolution or ordinance deny or pass the recommendations;

7. If the changes are adopted the Planning Commission shall prepare a copy of the amended language or map revisions;
8. Once the copy is prepared the City Attorney shall review the changes and forward the changes to the City Finance Officer for publishing;
9. The complete copy of changes must be published once in a legal newspaper of the City; and
10. The changes take effect twenty (20) days after publication.

## CHAPTER 26

### VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES

#### Section 2601 Building Permit Violations

Any person, firm, or corporation in violation of Section 2111 shall be assessed a late fee of twenty-five (25) dollars. The Zoning Administrator may also take enforcement measures as given in Section 2101. Payment of all fees shall be made in the Chamberlain Finance Office within ten (10) days after the person, firm, or corporation in violation of this Ordinance has been notified by registered letter. If payment of the fee is not received at the end of the ten (10) day period, the City Attorney shall have the power to prosecute said violation.

#### Section 2603 Violation of This Ordinance

It is declared unlawful for any person, firm, or corporation to violate any of the terms or provisions of this Ordinance, except as otherwise specified in Section 2303. Violation thereof shall be a Class II misdemeanor and may be punishable by a fine of up to two hundred (200) dollars for each and every day that any violator fails to comply with the provisions of this Ordinance. All fines for violations shall be paid to the city and shall be credited to the general revenue fund.

Any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

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## CHAPTER 27

### LEGAL STATUS PROVISIONS

#### Section 2701   Separability

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

#### Section 2703   Purpose of Catch Heads

The catch heads herein are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court, or other tribunal in construing the terms and provisions of this Ordinance.

#### Section 2705   Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

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