

**2020 REVISED CANISTOTA
ZONING REGULATIONS
2020-01**

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

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CHAPTER 1. GENERAL PROVISIONS

- 1.01 Title and Application.** These regulations shall be referred to as the “2020 Revised Zoning Ordinance of the City of Canistota”, or herein, as “this Ordinance”.
- 1.02 Jurisdiction.** The provisions of this Ordinance shall apply to all territory within the boundaries of the City of Canistota, South Dakota, as established on the Official Zoning Map of the City of Canistota.
- 1.03 Purpose.** This Ordinance has been based upon the Canistota Comprehensive Plan adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws (SDCL). It is designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended to:

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

- 1.04 Provisions of Ordinance Declared to be Minimum Requirements.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this Ordinance either internally conflict or conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.
- 1.05 Private Agreements.** The City shall not be responsible for monitoring or enforcing private easements, covenants, deed restrictions, or homeowner associations and their documents, although it may inquire as to whether a lot or lots are subject to any of the aforementioned private agreements during the review of any application submitted pursuant to this Ordinance.
- 1.06 Separability Clause.** Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

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

1.08 Savings Clause. These regulations shall in no manner affect pending actions, either civil or criminal, founded on, or growing out of any regulations hereby repealed. These regulations shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations repealed.

1.09 Violations. The owner or agent of a building or lot in or upon which a violation of any provision of this Ordinance has been committed or shall exist, or the lessee or tenant of an entire building or entire lot in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part, or assists in any violation or who maintains any building or lot in or upon which such violation shall exist, shall be guilty of a Class 2 misdemeanor and shall be punished by a fine not to exceed \$500.00, thirty (30) days in jail, or both. Each day that such violation continues may constitute a separate offense.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or lot is used in violation of this Ordinance, the appropriate representatives of the City, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure, or lot.

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

CHAPTER 2. DISTRICTS AND BOUNDARIES

2.01 General Regulations. The following general regulations shall apply to all zoning districts:

- A. Except as otherwise provided, a lot shall only be used:
 - 1. For a principal building or land use authorized in this Ordinance as either a Permitted or Conditional Use in the district in which it is located or proposed to be located;
 - a. Exception: The Authorized Official may determine that a proposed principal building or land use, while not specifically classified within a district as a Permitted or Conditional Use, is sufficiently similar to another building or land use so classified that it shall be treated similarly within that district. In reaching such a conclusion, the Authorized Official shall first evaluate the nature of the proposed building or land use, including, but not limited to, its potential generation of traffic, congestion, noise, odors, dust, litter, and similar impacts.
 - 2. In conformance with the lot, yard, and height requirements; the accessory use, parking, and sign regulations; and any other applicable requirements of the district in which the building or land use is located or proposed to be located; and
 - 3. In conformance with any federal, state, or local laws as may be applicable.
- B. All required permits shall be obtained in conformance with Chapter 13.
- C. One (1) Permitted or Conditional Use is allowed per lot, except for lots in the UR/AG District may concurrently contain both a single-family farm dwelling and agricultural uses. Accessory buildings, structures, and uses are allowed in conformance with Chapter 9.01.
- D. The density, lot area, lot width, and yard requirements are minimum standards for each and every building existing at the effective date of this Ordinance and for any building hereafter erected or structurally altered.
- E. Every building erected, converted, moved, enlarged, reconstructed, or structurally altered after the effective date of this Ordinance shall be on a lot adjacent to a public street, or with access to an approved private drive, and all structures shall

be so located on lots as to provide safe and convenient access for servicing and required off-street parking.

- F. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of this Ordinance and all requirements shall be observed as though they were under single ownership.

2.02 Districts Designated. In order to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of the yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes; the City is hereby divided into the following districts:

UR/AG	Urban Reserve/Agriculture District
R1	Single Family Residential District
R2/MH	Mixed Residential/Manufactured Housing District
CB	Central Business District
GB	General Business District
I	Industrial District

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

2.04 Changes to Official Zoning Map. Changes to or replacement of the Official Zoning Map shall require amendment of this Ordinance, as provided for in Chapter 15.

2.05 Interpretation of District Boundaries. The following rules shall apply where uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map:

- A. Boundaries indicated as approximately following platted lot lines or corporate limits shall be interpreted to follow such platted lot lines or corporate limits;
- B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;
- C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;
- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground differ from those shown on the Official Zoning Map, the Zoning Board of Adjustment, as established in Chapter 14, shall interpret the district boundaries; and

E. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Planning Commission may permit, by a conditional use permit (Chapter 16), the extension of the regulations for either portion of the lot into the remaining portion of the lot.

2.06 Annexations. When possible, the City will make every effort to conduct the rezoning of new territories concurrent with the annexation into the City. When it is not possible to conduct the rezone concurrent with the annexation, the territories which may hereafter be annexed into the City shall automatically be assigned the zoning district concurrent with or closest to the existing McCook County zoning classification until such time as the area is rezoned in conformance with this Ordinance.

CHAPTER 3. UR/AG: URBAN RESERVE/AGRICULTURE DISTRICT

- 3.01 Purpose.** The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to protect views, to preserve natural settings for wildlife habitats, to add to the aesthetic quality of the community, and to lessen the urban density.
- 3.02 Permitted Uses.** Lots or buildings in the UR/AG District may be used for one (1) of the following principal purposes only:
- A. Agriculture.
 - B. Cemetery.
 - C. Public parks, playgrounds, trails, ball fields, or swimming pool.
 - D. Single-family detached dwelling.
- 3.03 Conditional Uses.** The following principal buildings or uses may be allowed after review and approval of a conditional use permit by the Planning Commission:
- A. Broadcast towers.
 - B. Campground.
 - C. Golf course, driving range, or country club.
 - D. House of worship.
 - E. Municipally owned wastewater treatment facility.
 - F. Public service facility owned and operated by a government entity.
 - G. Public utility facility.
 - H. Telecommunications tower, antenna support structure, and wireless telecommunication facility in conformance with Chapter 9.11.
- 3.04 Prohibited Principal Buildings and Uses.** Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other buildings and uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the UR/AG District.

- 3.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the UR/AG District shall be regulated in conformance with the provisions of Chapter 9.01.
- 3.06 Fence Regulations.** Fences within the UR/AG District shall be regulated in conformance with the provisions of Chapter 9.02.
- 3.07 Home Occupations.** Home occupations within the UR/AG District shall be regulated in conformance with the provisions of Chapter 9.03.
- 3.08 Off-Street Parking Regulations.** Off-street parking within the UR/AG District shall be regulated in conformance with the provisions of Chapter 9.09.
- 3.09 Sign Regulations.** Signs within the UR/AG District shall be regulated in conformance with the provisions of Chapters 9.07 and 9.08.
- 3.10 Lot Area, Yard, and Height Regulations.** The maximum building height, minimum lot area, minimum lot width, and setback requirements within the UR/AG District shall be as follows:

A. General Requirements:

	Minimum Lot Area	Minimum Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
All uses	7,500 sq. ft.	60 ft.	25 ft.	7 ft.	25 ft.	None

Exceptions

- #1 Minimum lot area, minimum lot width, setbacks, and maximum height regulations for principal Conditional Uses may be adjusted by the terms and conditions of the conditional use permit (Chapter 16).
- #2 See also Adjustments to Yard Regulations (Chapter 10) and Non-Conforming and Nonstandard Uses (Chapter 11) for other specific exceptions.

CHAPTER 4. R1: SINGLE FAMILY RESIDENTIAL DISTRICT

- 4.01 Purpose.** The purpose of this district is to provide for residential areas within the City and establish places where similar developments are likely to occur.
- 4.02 Permitted Uses.** Lots or buildings in the R1 Single Family District may be used for one (1) of the following principal purposes only:
- A. Community garden.
 - B. House of worship.
 - C. Library, museum, or school.
 - D. Public Park, playground, trails, or swimming pool.
 - E. Public service facility.
 - F. Single-family attached dwellings/Duplex.
 - G. Single-family attached dwellings/Townhome.
 - H. Single-family attached dwellings/Twin Home.
 - I. Single-family detached dwelling.
- 4.03 Conditional Uses.** The following principal buildings or uses may be allowed after review and approval of a conditional use permit by the Planning Commission:
- A. Assisted living facility or nursing home.
 - B. Cemetery.
 - C. Convent/monastery.
 - D. Group home.
 - E. Multiple-family dwelling.
 - F. Public utility facility.
- 4.04 Prohibited Principal Buildings and Uses.** Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other buildings and uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R1 District.

- 4.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the R1 District shall be regulated in conformance with the provisions of Chapter 9.01.
- 4.06 Fence Regulations.** Fences within the R1 District shall be regulated in conformance with the provisions of Chapter 9.02.
- 4.07 Home Occupations.** Home occupations within the R1 District shall be regulated in conformance with the provisions of Chapter 9.03.
- 4.08 Off-Street Parking Regulations.** Off-Street parking within the R1 District shall be regulated in conformance with the provisions of Chapter 9.09.
- 4.09 Sign Regulations.** Signs within the R1 District shall be regulated in conformance with the provisions of Chapters 9.07 and 9.08.
- 4.10 Lot Area, Yard, and Height Regulations.** The maximum building height, minimum lot area, minimum lot width, and setback requirements within the R1 District shall be as follows:

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
Single-family detached dwelling	7,500 sq. ft.	60 ft. see #2, #4	25 ft. see #5	7 ft.	25 ft.	35 ft.
Duplex, Single-family attached dwellings	9,000 sq. ft./4,500 per unit	90 ft./45 ft. per unit	25 ft. see #5	7 ft.	25 ft.	35 ft.
Townhome, Single-family attached dwellings	5,000 sq. ft. per unit	45 ft. per unit	25 ft. see #5	7 ft.	25 ft.	35 ft.
Twin home, Single-family attached dwelling	5,000 sq. ft.	45 ft.	25 ft. see #5	7 ft.	25 ft.	35 ft.

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
Multiple-family dwellings	9,000 sq. ft. plus an additional 3,000 sq. ft. per unit	60 ft.	25 ft. see #5	7 ft.	25 ft.	45 ft.
All other uses	NA	NA	25 ft. see #5	7 ft.	25 ft.	35 ft.

Exceptions

- #1 Minimum lot area, minimum lot width, setbacks, and maximum height regulations for principal Conditional Uses may be adjusted by the terms and conditions of the conditional use permit (Chapter 16).
- #2 A single-family detached dwelling may be constructed on a lot-of-record which has a lot width of less than sixty (60) feet, subject to applicable setback requirements.
- #3 The side yard is zero (0) feet on the party wall side of the structure.
- #4 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line; however, the minimum lot width at the right of way line shall not be less than fifty (50) feet.
- #5 There shall be a required front yard on each street side of a corner lot. Similarly, there shall be a required front yard on each street side of a double-frontage lot. In both situations, the addressed required front yard shall be twenty-five (25) feet; however, the other required front yard may be reduced to twenty (20) feet.
- #6 See also Adjustments to Yard Regulations (Chapter 10) and Non-Conforming and Nonstandard Uses (Chapter 11) for other specific exceptions.

CHAPTER 5. R2/MH: MIXED RESIDENTIAL /MANUFACTURED HOUSING DISTRICT

- 5.01 Purpose.** The purpose of this district is to provide for high density residential areas in the City that may be developed for all types of mixed residential, manufactured housing, and relevant support facilities.
- 5.02 Permitted Uses.** Lots or buildings in the R2/MH District may be used for one (1) of the following principal purposes only:
- A. Multiple-family dwelling.
 - B. Single-family attached dwellings/Duplex.
 - C. Single-family attached dwellings/Townhome.
 - D. Single-family attached dwellings/Twin Home.
 - E. Single-family detached dwelling.
 - F. Public parks, playgrounds, trails, or swimming pool.
 - G. Public service facility.
- 5.03 Conditional Uses.** The following principal buildings or uses may be allowed after review and approval of a conditional use permit by the Planning Commission:
- A. Group home.
 - B. House of worship.
 - C. Library, museum, or school.
 - D. Manufactured home in conformance with Chapter 9.05.
 - E. Manufactured homes in licensed manufactured home parks in conformance with Chapter 9.06.
 - F. Public utility facility.
- 5.04 Prohibited Principal Buildings and Uses.** Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other buildings and uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R2/MH District.

- 5.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the R2/MH District shall be regulated in conformance with the provisions of Chapter 9.01.
- 5.06 Fence Regulations.** Fences within the R2/MH District shall be regulated in conformance with the provisions of Chapter 9.02.
- 5.07 Home Occupations.** Home occupations within the R2/MH District shall be regulated in conformance with the provisions of Chapter 9.03.
- 5.08 Off-Street Parking Regulations.** Off-street parking within the R2/MH District shall be regulated in conformance with the provisions of Chapter 9.09.
- 5.09 Sign Regulations.** Signs within the R2/MH District shall be regulated in conformance with the provisions of Chapters 9.07 and 9.08.
- 5.10 Lot Area, Yard, and Height Regulations.** The maximum building height, minimum lot area, minimum lot width, and setback requirements within the R2/MH District shall be as follows:

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
Single-family detached dwelling	7,500 sq. ft.	60 ft. see #2, #4	25 ft. see #5	7 ft.	25 ft.	35 ft.
Duplex, Single-family attached dwellings	9,000 sq. ft./4,500 per unit	90 ft./45 ft. per unit	25 ft. see #5	7 ft.	25 ft.	35 ft.
Townhome, Single-family attached dwellings	5,000 sq. ft. per unit	45 ft. per unit	25 ft. see #5	7 ft.	25 ft.	35 ft.
Twin home, Single-family attached dwelling	5,000 sq. ft.	45 ft.	25 ft. see #5	7 ft.	25 ft.	35 ft.

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
Multiple-family dwellings	9,000 sq. ft. plus an additional 3,000 sq. ft. per unit	60 ft.	25 ft. see #5	7 ft.	25 ft.	45 ft.
Manufactured Home	See Chapter 9.05					
Licensed Manufactured Home Park	See Chapter 9.06					
All other uses	NA	NA	25 ft. see #5	7 ft.	25 ft.	35 ft.

Exceptions

- #1 Minimum lot area, minimum lot width, setbacks, and maximum height regulations for principal Conditional Uses may be adjusted by the terms and conditions of the conditional use permit (Chapter 16).
- #2 A single-family detached dwelling may be constructed on a lot-of-record which has a lot width of less than sixty (60) feet, subject to applicable setback requirements.
- #3 The side yard is zero (0) feet on the party wall side of the structure.
- #4 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line; however, the minimum lot width at the right of way line shall not be less than fifty (50) feet.
- #5 There shall be a required front yard on each street side of a corner lot. Similarly, there shall be a required front yard on each street side of a double-frontage lot. In both situations, the addressed required front yard shall be twenty-five (25) feet; however, the other required front yard may be reduced to twenty (20) feet.
- #6 See also Adjustments to Yard Regulations (Chapter 11) and Non-Conforming and Nonstandard Uses (Chapter 12) for other specific exceptions.

CHAPTER 6. CB: CENTRAL BUSINESS DISTRICT

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

6.02 Permitted Uses. Lots or buildings in the CB District may be used for one (1) of the following principal purposes only:

- A. Bank or financial institution.
- B. Day care center.
- C. Funeral home/mortuary.
- D. Hotel, inn, or motel.
- E. House of worship.
- F. Meeting hall.
- G. Motor vehicle parking lot.
- H. Motor vehicle service station and/or gasoline dispensing station.
- I. Office.
- J. Personal service business.
- K. Post office or other government buildings.
- L. Public Park, playground, trails, or swimming pool.
- M. Public service facility.
- N. Retail service or trade business.

6.03 Conditional Uses. The following principal buildings or uses may be allowed after review and approval of a conditional use permit by the Planning Commission:

- A. Adult oriented business in conformance with SDCL 11-12.
- B. Mixed-use commercial/residential.

- C. Motor vehicle repair shop.
- D. Public utility facility.

6.04 Prohibited Principal Buildings and Uses. Unless authorized pursuant to Chapter 2.01(A) (1)(a), all other buildings and uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the CB District.

6.05 Accessory Buildings, Structures, and Uses. Accessory buildings, structures, and uses permitted within the CB District shall be regulated in conformance with the provisions of Chapter 9.01.

6.06 Fence Regulations. Fences within the CB District shall be regulated in conformance with the provisions of Chapter 9.02.

6.07 Off-Street Parking Regulations. Off-street parking within the CB District shall be regulated in conformance with the provisions of Chapter 9.09.

6.08 Sign Regulations. Signs within the CB District shall be regulated in conformance with the provisions of Chapters 9.07 and 9.08.

6.09 Lot Area, Yard, and Height Regulations. The maximum building height, minimum lot area, minimum lot width, and setback requirements within the CB District shall be as follows:

- A. The average front and rear yard setback existing on each street shall apply.
- B. There are no side yard or lot area restrictions.
- C. See also Adjustments to Yard Regulations (Chapter 10) for specific exceptions.
- D. When abutting a residential district, uses and structures shall have a minimum front yard of twenty (20) feet, minimum side yards of five (7) feet, and minimum rear yard of fifteen (15) feet.
- E. The maximum height of all buildings and structures shall not exceed forty-five (45) feet.

6.10 Additional Regulations Applicable to All Buildings and Uses in the CB District. To be a Permitted or Conditional Use in the CB District, such use must meet the following performance standards:

- A. No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, gasoline, motor fuels, or welding gasses.

- B. Activities shall be prohibited which emit air contaminants, smoke, odors, gasses, noise, or vibrations which are evident beyond the property lines of the lot upon which such activity is to be located.

CHAPTER 7. GB: GENERAL BUSINESS DISTRICT

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

7.02 Permitted Uses. Land or buildings in the GB District may be used for one (1) of the following principal purposes only:

- A. Bank or financial institution.
- B. Car wash.
- C. Day care center.
- D. Funeral home/mortuary.
- E. Greenhouse/nursery.
- F. Hotel, inn, or motel.
- G. Hospital or clinic.
- H. House of worship.
- I. Office/Meeting hall.
- J. Motor vehicle parking lot.
- K. Motor vehicle repair shop, service station, and/or gasoline dispensing station.
- L. Motor vehicle sales, display, service, and/or rental.
- M. Personal service business.
- N. Post office or other government buildings.
- O. Public Park, playground, trails, or swimming pool.
- P. Public service facility.
- Q. Recreational facility.
- R. Retail service or trade business.

S. Theater.

7.03 Conditional Uses. The following may be permitted after review and approval of a conditional use permit by the Planning Commission:

- A. Adult oriented business in conformance with SDCL 11-12.
- B. Building, construction, farm, and/or industrial equipment sales, display, service, or rental.
- C. Campground.
- D. Consumer storage building.
- E. Golf course, driving range, or country club.
- F. Kennel.
- G. Mixed-use commercial/residential.
- H. Public utility facility.

7.04 Prohibited Principal Buildings and Uses. Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other buildings and uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the GB District.

7.05 Accessory Buildings, Structures, and Uses. Accessory buildings, structures, and uses permitted within the GB District shall be regulated in conformance with the provisions of Chapter 9.01.

7.06 Fence Regulations. Fences within the GB District shall be regulated in conformance with the provisions of Chapter 9.02.

7.07 Off-Street Parking Regulations. Off-street parking within the GB District shall be regulated in conformance with the provisions of Chapter 9.09.

7.08 Sign Regulations. Signs within the GB District shall be regulated in conformance with the provisions of Chapters 9.07 and 9.08.

7.09 Lot Area, Yard, and Height Regulations. The maximum building height, minimum lot area, minimum lot width, and setback requirements within the GB District shall be as follows:

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
All uses	NA	NA	20 ft. see #4	10 ft. see #2	20 ft. see #3	35 ft.

Exceptions

- #1 Minimum lot area, minimum lot width, setbacks, and maximum height regulations for principal Conditional Uses may be adjusted by the terms and conditions of the conditional use permit (Chapter 16).
- #2 A side yard of ten (10) feet shall be required where a lot is adjacent to or abuts a residential district.
- #3 A rear yard of twenty (20) feet shall be required where a lot is adjacent to or abuts a residential district.
- #4 A front yard of twenty (20) feet shall be required on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #5 See also Adjustments to Yard Regulations (Chapter 10) for other specific exceptions.

7.10 Additional Regulations Applicable to All Buildings and Uses in the GB District. To be a Permitted or Conditional Use in the GB District, such use must meet the following performance standards:

- A. No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, gasoline, motor fuels, or welding gasses.
- B. Activities shall be prohibited which emit air contaminants, smoke, odors, gasses, noise, or vibrations which are evident beyond the property lines of the lot upon which such activity is to be located.

CHAPTER 8. I: INDUSTRIAL DISTRICT

8.01 Purpose. The purpose of this district is to provide a number of manufacturing, wholesale, warehousing, and service uses in an attractive industrial park-like setting.

8.02 Permitted Uses. Lots or buildings in the I District may be used for one (1) of the following principal purposes only:

- A. Agriculture related facilities involving the handling, storage, processing, and/or shipping of farm products.
- B. Building, construction, farm, and/or industrial equipment sales, display, service, or rental.
- C. Consumer storage building.
- D. Contractor's shop and storage yard.
- E. Frozen food locker.
- F. Light manufacturing.
- G. Motor vehicle parking lot.
- H. Motor vehicle sales, display, service, and/or rental.
- I. Public utility facility.
- J. Stone and monument works.
- K. Truck and freight terminal.
- L. Warehouse or storage houses used for the warehousing or storage of non-hazardous products and materials.
- M. Wholesale merchandise sales and storage houses for commercial warehousing and storage of non-hazardous materials either in mass or bulk.

8.03 Conditional Uses. The following may be permitted after review and approval of a conditional use permit by the Planning Commission:

- A. Airport/heliport.
- B. Auto body shop.

- C. Broadcast tower.
- D. Crematory.
- E. Extraction of rock, sand, and/or gravel.
- F. General manufacturing.
- G. Machine shop or other metal working establishment.
- H. Mineral exploration and development.
- I. Motor vehicle wrecking yard, junkyard, salvage yard, or scrap processing facility.
- J. Municipally owned waste water treatment facility.
- K. Recycling collection or processing facility.
- L. Sanitary landfill and/or solid waste transfer station.
- M. Smelting or boiler works.
- N. Tank farm/petroleum products terminal.
- O. Telecommunications tower, antenna support structure, and wireless communications facility in conformance with Chapter 9.11.
- P. Warehouses or storage houses used for the warehousing or storage of hazardous products and materials.
- Q. Wholesale merchandise sales and storage houses including the commercial warehousing and storage of hazardous materials either in mass or bulk.
- R. Wind energy conversion system.

8.04 Prohibited Principal Buildings and Uses. Unless authorized pursuant to Chapter 2.01(A) (1) (a), all other buildings and uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the I District.

8.05 Accessory Buildings, Structures, and Uses. Accessory buildings, structures, and uses permitted within the I District shall be regulated in conformance with the provisions of Chapter 9.01.

8.06 Fence Regulations. Fences within the I District shall be regulated in conformance with the provisions of Chapter 9.02.

8.07 Off-Street Parking Regulations. Off-street parking within the I District shall be regulated in conformance with the provisions of Chapter 9.09.

8.08 Sign Regulations. Signs within the I District shall be regulated in conformance with the provisions of Chapter 9.07 and 9.08.

8.09 Lot Area, Yard, and Height Regulations. The maximum building height, minimum lot area, minimum lot width, and setback requirements within the I District shall be as follows:

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
All uses	NA	NA	25 feet see #4	10 feet see #3	25 feet	45 feet see #2

Exceptions

#1 Minimum lot area, minimum lot width, setbacks, and maximum height regulations for principal Conditional Uses may be adjusted by the terms and conditions of the conditional use permit (Chapter 16).

#2 A conditional use permit will be required for any structure having a maximum height exceeding forty-five (45) feet (Chapter 16).

#3 A side yard of twenty (25) feet shall be required only where a lot is adjacent to or abuts a residential district.

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

#5 See also Adjustments to Yard Regulations (Chapter 11) for other specific exceptions.

#6 Municipally owned waste water treatment facilities are exempt from minimum setback requirements.

8.10 Additional Regulations Applicable to All Buildings and Uses in the I District. To be a Permitted or Conditional Use in the I District, such use must meet the following performance standards:

A. Fire Hazard. All flammable substances shall be handled in accordance with the laws of the State of South Dakota and other applicable federal, state, and local regulations.

B. Noise. All noises and noise causing activities shall be muffled so that they will not create a disturbance in any adjacent Residential or Commercial District.

- C. Air Contaminants. Emissions of contaminants and smoke shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- D. Gasses and Odors. Emissions of gasses and odors shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- E. Vibration. All machines, including punch presses and stamping machines, shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

CHAPTER 9. ADDITIONAL USE REGULATIONS

9.01 Accessory Buildings, Structures, and Uses. Accessory buildings, structures, and uses shall conform to the following standards:

- A. No building, structure, or use shall be constructed or developed on a lot prior to construction of the principal building or commencement of the principal use.
- B. Any building or structure placed within an easement that impedes the access or intended use of that easement may be removed by the City or the City's agent at its owner's expense.
- C. Accessory buildings and structures are permitted by right in the rear yard. Any person seeking to build, construct, move, or otherwise locate an accessory building or structure in the front yard or a side yard must obtain a conditional use permit in conformance with Chapter 16.
- D. No accessory building shall be erected within five (5) feet of any property line.
- E. No accessory buildings or structures shall be erected or maintained which violate Chapter 9.12 – Visibility at Intersections and Driveways.
- F. Any building or structure with floor area greater than one hundred twenty (120) square feet shall be secured to the ground to prevent it from being moved or damaged by high winds typical of the area.
- G. In the R1 Single Family Residential District and R2/MH Mixed Residential / Manufactured Housing District, accessory buildings, structures, and uses are limited to the following:
 - 1. Noncommercial recreational buildings or structures including, but not limited to, tennis courts, swimming pools, barbeque pits, pergolas, greenhouses, workshops, playhouses, and gazebos.
 - 2. A private residential garage used only for the storage of noncommercial vehicles and other household items.
 - 3. Traditional consumer storage buildings including, but not limited to, garden sheds.
 - 4. Cloth, canvas, plastic sheets and tarps, and corrugated siding are not allowed as primary materials, except greenhouses are allowed to have

sheeting (glass or plastic) of prescribed building thickness as an outer covering. Metal roofs are allowed if approved by a conditional use permit.

5. The architectural design of and materials used for private residential garages must be similar to the principal structure.
 6. Fences in conformance with Chapter 9.02.
 7. Home occupations in conformance with Chapter 9.03.
- H. Accessory buildings and structures may not be used for dwelling purposes unless approved by a conditional use permit.

9.02 Fences. Fences shall conform to the following standards:

- A. No barbed wire fence shall be erected or maintained, unless it is approved by a conditional use permit.
- B. Exposed electrical and other abnormally dangerous fences are prohibited within all zoning districts.
- C. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.
- D. For the UR/AG, R1, R2/MH, and CB Districts - Fences not more than eight (8) feet in height may be erected or maintained on any part of a lot other than in the required front yard; fences not more than four (4) feet in height may be located on any part of the lot.
- E. For the GB and I Districts - Fences not more than eight (8) feet in height may be erected or maintained on any part of the lot.
- F. No fence shall be erected which violates Chapter 9.12 – Visibility at Intersections and Driveways.
- G. To preserve the neighborhood character of the R1 and R2/MH Districts, fences along the perimeter of a front yard shall be of a traditional design and shall not be more than fifty (50) percent solid.
- H. Chain link fences for tennis courts, basketball courts, baseball fields, or similar outdoor recreational uses may be erected or maintained to a maximum height of twelve (12) feet provided that the fence is not located within the required setback area.
- I. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.

- J. The side of the fence considered being the face (facing as applied to fence post) should face abutting property. (Nice side of the fence facing to the neighbor)
- K. In the event a fence is to be constructed on the property line, abutting property owners shall be notified prior to the issuance of a permit. It is recommended, but not required, that the property owners sign a fence maintenance agreement and file it with the McCook County Register of Deeds.
- L. The installation of a fence shall be in a manner as to which access to the City for the purposes of reading or maintaining utility meters is provided.
- M. Walls, hedges, or similar plantings and structures which create a fence effect are subject to the same regulations as fences.

9.03 Home Occupations. Home occupations shall conform to the following standards:

- A. Minor home occupations. All home occupations shall meet the following criteria and standards:
 - 1. The occupation shall be conducted entirely within a dwelling and clearly incidental to the use of the structure for residential purposes.

Exception: Family day care occupations may extend into a connected fenced area on the same lot for outdoor recreational activities by the children.
 - 2. The occupation shall be primarily owned and operated by one (1) member of the family residing in the dwelling.
 - 3. Employees of the occupation shall be limited to residents of the dwelling and one (1) non-resident employee, not to exceed three (3) employees working on site at any given time. The primary owner and operator of the occupation does not count as an employee for purposes of this calculation.
 - 4. The operation of the home occupation shall not cause or encourage excess vehicular or pedestrian traffic not ordinarily associated with the residential area in which the home occupation is conducted.
 - 5. Merchandise offered for sale shall be clearly incidental to the home occupation provided however, that, orders may be taken for later delivery off the premises.
 - 6. On-premises advertising shall be limited to one (1) non-illuminated sign not exceeding two (2) square feet. The legend shall show only the name of the occupant and type of occupation and shall be neutral in color.

7. Such occupations shall not require substantial internal or external alterations or involve construction of features not customary in a dwelling. No home occupation shall require external alteration of the residence or other visible evidence of the conduct of such home occupation.
 8. No toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials shall be stored on site.
 9. No activity shall be conducted which would interfere with radio or television transmission in the area, nor shall there be any offensive noise, smoke, dust, or heat noticeable beyond the premises.
 10. Home occupations shall be restricted to the hours of 6:00 a.m. to 9:00 p.m.
- B. Major home occupations. Any proposed home occupation which does not meet the criteria as established in Chapter 9.03(A) is deemed a major home occupation and shall require a conditional use permit in conformance with Chapter 16.

9.04 Landscaping Standards. To assist in these objectives, the following minimum standards for landscaping are prescribed:

- A. All zoning districts, at least ninety (90) percent of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways.
- B. The unpaved portion of a dedicated public right-of-way abutting any development shall be landscaped with sod, seed, or other living ground cover.
- C. Screening: A fence, wall, or shrubbery six (6) feet in height and of a character necessary for adequate screening shall be installed or planted when a parking lot is located adjacent to residentially used property or across the right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the six (6) foot screening if they have a maximum grade of three (3) feet horizontal to one (1) foot vertical and sodded or planted with other acceptable living ground cover.
- D. Parking Lot Buffer Areas: A setback of at least five (5) feet shall be provided between a parking lot and residentially zoned property.

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

9.05 Manufactured Home Requirements. Manufactured homes shall conform to the following standards:

- A. The manufactured home shall meet or exceed the current federal Manufactured Home Construction and Safety Standards.

- B. Each manufactured home shall be properly secured to the ground with either a permanent foundation extending no less than four (4) feet below grade or with tie downs installed as recommended by the manufacturer. Any tie downs shall be installed prior to occupancy. In no event shall they be more than twelve (12) feet apart along the perimeter of the structure or extend down less than four (4) feet below grade. For purposes of this section, the term “permanent foundation” shall mean one that is constructed of durable materials (concrete, mortared masonry), site built, and have attachment points to anchor and stabilize the manufactured home to transfer all loads to underlying soil or rock.”
- C. Each manufactured home shall be skirted with material approved by the Authorized Official. Skirting shall be installed prior to occupancy and in a manner recommended by the manufacturer. Skirting shall be of a material which is compatible with the appearance and condition of neighboring dwelling units. Appropriate materials shall include commercially manufactured masonry materials.
- D. Each manufactured home shall be connected to the municipal wastewater collection system and municipal water supply system.
- E. No manufactured home placed within the City limits of Canistota may exceed ten (10) years from the date of manufacture.

9.06 Manufactured Home Park Requirements. A park intended for the placement of manufactured homes on rented lots and where the roads are not publicly dedicated shall meet the following minimum standards:

- A. A site-plan shall be prepared showing the layout of the park, including lot lines, the road system, and spacing diagram of all buildings and structures. Upon approval of a conditional use permit for the park, the site-plan shall be filed with the Authorized Official and govern all future development.
- B. Each park shall be a minimum of five (5) acres in size.

9.07 Permanent Signs. The requirements set forth herein shall apply to all permanent signs:

- A. General Standards. All permanent signs shall conform to the following standards:
 - 1. All signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a wall, frame, or other sign structure.
 - 2. All signs shall be constructed to withstand a wind load of thirty (30) pounds per square foot.

3. Signs shall be maintained in a safe and legible condition at all times. Signs which are not maintained shall be deemed to be either unsafe or unlawful by the Authorized Official and shall be removed unless brought into compliance immediately upon written notice. Any expense incurred by the City during the removal of a private sign shall be the responsibility of its owner.

B. Lots Containing a Single-Family Detached Dwelling, Single-Family Attached Dwelling, or Manufactured Home.

1. Each lot containing a single-family detached dwelling, single-family attached dwelling, or manufactured home may have one (1) wall or freestanding sign. One (1) additional wall or freestanding sign shall be allowed if there is an approved Home Occupation. Each sign shall be a maximum of two (2) square feet in area. If placed as a freestanding sign, the sign shall not exceed two (2) feet in height above grade.

C. Lots Containing a Multiple-Family Dwelling.

1. One (1) wall sign may be attached to each principal building. It shall have a maximum area of ten (10) square feet.
2. One (1) freestanding sign shall be permitted per lot. It shall not exceed thirty-two (32) square feet in area and be taller than six (6) feet above grade.
3. Each individual dwelling unit within a multi-family dwelling if immediately accessed through an exterior door may have one (1) wall or freestanding sign. One (1) additional wall sign shall be permitted for each dwelling unit if it is immediately accessed through an exterior door and there is an approved Home Occupation. Each sign shall be a maximum of two (2) square feet in area. If placed as a freestanding sign, the sign shall not exceed two (2) square feet in height above grade.

D. Lots Containing a House of Worship or School.

1. Wall signs shall have a maximum area of ten (10) square feet.
2. Freestanding signs shall not exceed thirty-two (32) square feet in area and be no taller than six (6) feet above grade.

E. AG Lots Not Containing a Dwelling, House of Worship, or School.

1. Wall signs shall have a maximum area of ten (10) square feet.
2. Freestanding signs shall not exceed thirty-two (32) square feet in area and be no taller than six (6) feet above grade.

F. R1 and R2/MH District Lots Not Containing a Dwelling, House of Worship, or School.

1. One (1) wall sign may be attached to each principal building. It shall have a maximum area of ten (10) square feet.
2. One (1) freestanding sign shall be permitted per lot. It shall not exceed thirty-two (32) square feet in area and be no taller than six (6) feet above grade.

G. CB District Lots.

1. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed three (3) square feet per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. No portion of any wall, roof, or projecting sign may exceed the height of the building or structure to which it is attached.
2. Freestanding signs shall be permitted so long as their cumulative total area per lot does not exceed one (1) square foot per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. No freestanding sign shall be taller than forty-five (45) feet above grade.

H. GB District Lots.

1. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed three (3) square feet per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. Roof and projecting signs may not be located higher than five (5) feet above the building's roof line.
2. Freestanding signs shall be permitted so long as their cumulative total area per lot does not exceed one (1) square foot per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. No freestanding sign shall be taller than thirty (30) feet above grade.

I. I District Lots.

1. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed one (1) square foot per three (3) feet of lineal street frontage.
2. Freestanding signs shall be permitted so long as each does not exceed one (1) square foot of area per three (3) lineal feet of street frontage. Each lot shall be limited to one (1) per street frontage except that businesses on

frontages of two hundred (200) feet or more may erect two (2) freestanding signs.

3. Any sign that exceeds two hundred (200) square feet in area must be located at least five hundred (500) feet from a residentially zoned district or another sign two hundred (200) square feet in area or larger.

9.08 Other Permitted Signs. The following types of signs shall be permitted in all zoning districts unless otherwise specified herein:

A. Temporary Signs

1. No sign may be located within or overhang a public right-of-way or sidewalk.
2. No sign may interfere with visibility at an intersection or driveway in conformance with Chapter 9.12.
3. No sign face area shall exceed:
 - a. Thirty-two (32) square feet in the R1 and R2/MH Districts; or
 - b. One-hundred (100) square feet in the UR, CB, GB, and I Districts.
4. A sign shall be removed if it becomes torn, faded, or otherwise damaged.
5. A sign shall be securely attached to a sign support or building.

B. Signs required or erected by a governmental entity.

C. Signs affixed to or painted on a display window.

D. Flags, badges, or insignia of any government, governmental agency, or any civic, religious, fraternal, or similar organization.

9.09 Off-Street Parking Requirements.

A. General Conditions.

1. No parking spaces are permitted in the required front yard in any district except for portions of the front yard necessary for hard surfaced driveways or as otherwise provided in this Ordinance. Parking is permitted in a side yard or rear yard in the R1 and R2/MH Districts, provided it is not nearer than two (2) feet to the property line.
2. Each parking space shall be directly accessible to an access lane.

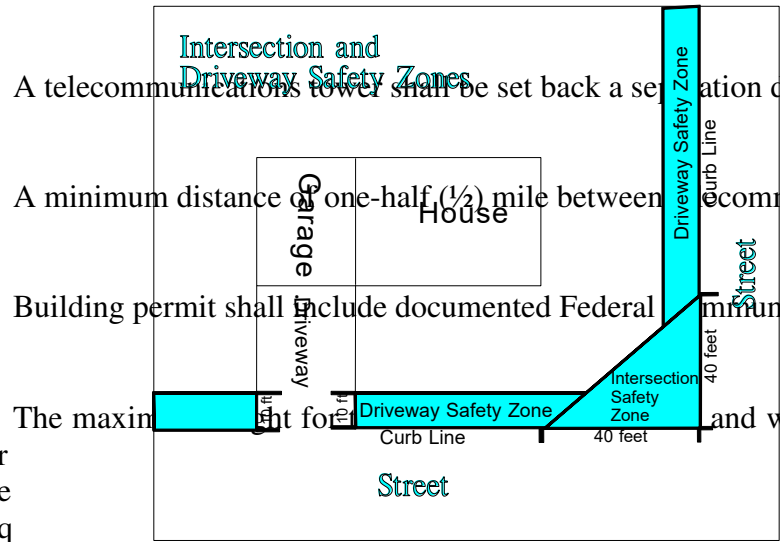
3. Except in conjunction with a legal nonconforming business or the performance of a service, it shall be unlawful for any person to park, store, leave, or permit the parking, storing, or leaving of any commercial vehicle with a Gross Vehicle Weight Rating (GVWR) of over ten thousand (10,000) pounds in the UR/AG, R1, and R2/MH Districts.
4. All parking, loading, and maneuvering and drive areas thereto shall be hard surfaced with asphalt, concrete, or other acceptable paving systems (as determined by the Planning Commission).
5. These parking requirements shall not be applicable to property in the CB District, except for mixed used commercial/residential uses which are authorized by a conditional use permit in conformance with Chapter 16.

9.10 Site-Built Single-Family Detached, Single-Family Attached, Single-Family Farm, and Multi-Family Dwelling Standards. Site-built single-family detached, single-family attached, single-family farm, and multi-family dwellings shall conform to the following standards:

- A. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.
- B. All dwellings shall be oriented on the lot so that the primary pedestrian entrance faces the street or access easement.
- C. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. Metal roofs are allowed if approved by a conditional use permit.
- D. Exterior walls shall be constructed of materials commonly used on the exterior walls of residential structures (such as brick, concrete composite board, artificial or natural stone, exterior grade natural or composite wood, stucco or residential lap siding made of vinyl). Metal is allowed if approved by a conditional use permit.
- E. No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of this Ordinance, unless said dwelling is constructed upon, installed on, or moved onto a permanent foundation, as defined herein.
- F. The Authorized Official or his or her agent shall inspect and authorize all dwellings moved into the City of Canistota prior to the movement of the building.

9.11 Telecommunications Towers, Antenna Support Structures, and Wireless Communications Facilities. Wireless towers, antenna support structures, and wireless communications facilities shall conform to the following standards:

- A.
- B.
- C.
- D.



A telecommunications tower shall be set back a separation distance equal to its height from any

A minimum distance of one-half (1/2) mile between telecommunications towers measured from the

Building permit shall include documented Federal Communications Commission (FCC) approval

The maximum height for telecommunications towers and wireless communications facilities shall

r
e
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u

ired prior to permit issuance.

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

9.12 Visibility at Intersections and Driveways.

- A. Intersection safety zones: No monument style sign or other sign with its face less than twelve (12) feet above grade or any fence, wall, shrub or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted, or maintained within a triangular area of a corner lot that is included by measuring straight lines along the curb lines at points forty (40) feet distant in each direction from the intersection of the curbs and a straight line connecting the first two lines. (See Figure 1)
- B. Driveway safety zones: No monument style sign or other sign with its face less than ten (10) feet above grade or any fence, wall, shrub, or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten (10) feet behind the curb line. (See Figure 1)

Figure 1

CHAPTER 10. ADJUSTMENTS TO YARD REGULATIONS

- 10.01 Adjustment to Front Yard Requirements.** A front yard may be adjusted to an average of the adjacent structures' front yards where existing adjacent structures have a front yard less than required.
- 10.02 Adjustment to Side Yard Requirements.** Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.
- 10.03 Projection from Buildings.** Every part of any required yard shall be open to the sky and unobstructed except:
- A. Awnings, canopies, eaves, and similar projections may extend into a front, side, or rear yard.
 - B. Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features which may project twelve (12) inches.
 - C. Air conditioners may project into a required side or rear yard setback.
 - D. Solar collectors, which are a part of the principal building, may project no more than ten (10) feet into a required rear yard.
 - E. An open, unenclosed, and uncovered deck or paved patio may project into a required front yard for a distance not exceeding ten (10) feet. It may project into a required side or rear yard so long as it is at least five (7) feet from the adjacent lot line.

CHAPTER 11. NON-CONFORMING USES AND NON-STANDARD LOTS

11.01 Non-Conforming Buildings, Structures, and Uses. A lawful use or structure existing at the time this Ordinance is adopted or amended may continue even though such use does not conform with the district regulations subject to the following provisions:

- A. Whenever a non-conforming principal land use has been changed to a more restricted or conforming principal land use, it shall not be changed back to a less restricted use.
- B. Should any non-conforming building, structure, or use be destroyed by any means to the extent of more than fifty (50) percent of its replacement cost, such non-conforming use shall not continue.
- C. When a non-conforming use is discontinued for a period of one (1) year or a non-conforming building or structure is not occupied or otherwise actively used for its authorized use for a period of one (1) year, the City Council may adopt, after notice by mail or hand delivery to the property owners, an amortization schedule to bring about the elimination of such non-conforming building, structure, or use.
- D. Any non-conforming use may be extended throughout any part of a building or structure which was arranged or designed for such use prior to the adoption of this Ordinance, but shall not be extended outside such building or structure.
- E. No existing non-conforming building or structure shall be enlarged, moved, or structurally altered except to accommodate the transition to an authorized Permitted or Conditional Use.

11.02 Alterations to Non-Conforming Buildings, Structures, and Uses. Non-conforming uses existing immediately prior to the effective date of this Ordinance may be continued, although such uses do not conform to the requirements of this Ordinance. Additionally, non-conforming buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

- A. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.
- B. Structural alteration of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located.

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

11.03 Merger of Non-Standard Lots. If two (2) or more contiguous lots are held in single or joint ownership prior to the issuance of a building permit for any of the lots in conformance with Chapter 13, the lots shall be replatted into one (1) lot to the extent necessary to meet the District's minimum lot and yard requirements if: (1) all share the same zoning district classification; (2) any of the lots do not individually meet the minimum lot and yard requirements of the zoning district in which they are located; and (3) any of the lots are undeveloped or contain no principal structure.

11.04 Merger of Simultaneously Improved Lots. When improvements are proposed involving two (2) or more contiguous lots held either in single or joint ownership, said lots shall be replatted into one (1) lot prior to the issuance of a building permit in conformance with Chapter 13.

CHAPTER 12. ADMINISTRATION AND ENFORCEMENT

12.01 Powers and Duties. The Authorized Official is hereby authorized and directed to enforce all the provisions of this Ordinance and establish rules for its administration. For such purposes, he or she shall have the powers of a law enforcement officer. The Authorized Official shall also have the power to render interpretations thereof. Such interpretations shall be within its intent and purpose, and be set forth in writing. In addition, the Authorized Official may appoint or solicit technical advice, inspectors, municipal officials, and other municipal employees to assist with the administration of this Ordinance. With approval of the City Council, the Mayor shall appoint the Authorized Official.

12.02 Right of Entry. Whenever deemed necessary to enforce any of the provisions of this Ordinance, the Authorized Official and authorized representatives may enter such building and onto such lot at all reasonable times to perform an inspection. If such building or lot is occupied, the Authorized Official or his or her authorized representative shall first present proper credentials and request entry. If such building or lot is unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge, care, or control of it request entry. If such entry is refused, the Authorized Official or his or her authorized representative shall have recourse to every remedy provided by law to secure entry.

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

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

CHAPTER 13. PERMITS

13.01 Building Permits

- A. Permit Required. It shall be unlawful for any person, firm, or corporation to erect, construct, change, enlarge, improve, move, or otherwise physically alter any building or structure regulated by this Ordinance or cause the same to be done without first obtaining a separate building permit for each building or structure from the Authorized Official.
- B. Application. To obtain a building permit, the applicant shall file an application with the Authorized Official on a form as provided. Every application shall contain the following information:
1. Legal description of the lot for which the building permit is requested.
 2. Name, address, and telephone number of the owner of the lot which is the subject of the application.
 3. Name, address, and telephone number of the person making the application if made by anyone other than the lot's owner.
 4. The district and use classification(s) under which the lot is regulated at the time of the application.
 5. A description of the work to be covered by the permit for which the application is made.
 6. A site plan in conformance with Chapter 13.03.
 7. Be signed by the applicant, who may be required to submit evidence to indicate such authority if he or she is not the lot's owner.
 8. Any other information concerning the lot or the proposed work as may be requested by the Authorized Official.

13.02 Change of Use Permits.

- A. Permit Required. It shall be unlawful for any person, firm, or corporation to change the use of any lot, building, or structure regulated by this Ordinance, or

cause the same to be done, without first obtaining a change of use permit from the Authorized Official.

- B. Application. To obtain a change of use permit, the applicant shall file an application with the Authorized Official on a form as provided. Every application shall contain the following information:
1. Legal description or address of the lot for which the change of use is requested.
 2. Name, address, and phone number of the owner of the lot which is the subject of the application.
 3. Name, address, and phone number of the person making the application if made by anyone other than the lot's owner.
 4. The district and use classification(s) under which the lot is regulated at the time of the application.
 5. The use classification requested by the application.
 6. A site plan in conformance with Chapter 13.03.
 7. Be signed by the applicant, who may be required to submit evidence to indicate such authority if he or she is not the lot's owner.
 8. Any other information concerning the lot, its current use(s), or requested use as may be required by the Authorized Official.

13.03 Information on Site Plan. Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapters 13.01 and 13.02 shall contain the following information:

- A. The legal description or address of the lot shown on the site plan.
- B. The scale and north arrow.
- C. All existing and proposed buildings, structures, or additions thereto, with information regarding their dimensions, height, and number of stories.
- D. Distance from all building lines to the property lines at the closest points.
- E. Dimensions of all property lines.

Exception: The Authorized Official may waive the submission of plans, if he or she determines the nature of the work or change in land use(s) is such that reviewing plans is not necessary to obtain compliance with this Ordinance.

All plans shall not be changed, modified, or altered, and all work shall be performed in accordance with the approved plans.

13.04 Issuance of Permits. Once filed pursuant to Chapters 13.01 or 13.02, the application for a permit shall be reviewed by the Authorized Official. In doing so, he or she may consult with other departments to verify compliance with any applicable laws or requirements under their jurisdiction. If he or she determines that said application meets to the requirements of this Ordinance and other pertinent laws and ordinances, and that the fees specified in Chapter 17 have been paid, he or she shall issue the permit.

13.05 Validity of Permit. The issuance or granting of a permit or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Ordinance or of any other ordinance of the jurisdiction. No permit presuming to give authority to violate or cancel the provisions of this Ordinance shall be valid.

13.06 Expiration. Every permit issued under the provisions of this Ordinance shall expire by limitation and become null and void if the building, work, or use authorized by such permit is not commenced within one hundred-eighty (180) days from the date of such permit, or if the building, work, or use authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred-eighty (180) days. Before such building, work, or use can be recommenced, a new permit shall first be obtained to do so, provided no changes have been made or will be made in the original plans and specifications for such work.

13.07 Suspension or Revocation. The Authorized Official may, in writing, suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued in error or on the basis of incorrect information supplied.

CHAPTER 14. ZONING BOARD OF ADJUSTMENT

14.01 Establishment. A Zoning Board of Adjustment is hereby established for the City of Canistota, which shall consist of the members of the City Council, pursuant to SDCL 11-4-24.

14.02 Powers and Duties. The Zoning Board of Adjustment shall have the following powers and duties:

- A. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Authorized Official of the City of Canistota in the enforcement of this Ordinance.
- B. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Planning Commission either in the issuance or the failure to issue a conditional use permit in conformance with Chapter 16.
- C. To hear and decide upon petitions for variances to vary the strict applications of the height, area, setback, yard, parking, or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.

14.03 Appeal Procedure.

- A. Any person or persons, jointly or severally, aggrieved by any decision of the Authorized Official or Planning Commission may present a notice of appeal setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be filed with the Authorized Official of the City of Canistota, who shall transmit to the Zoning Board of Adjustment all information and records concerning the appeal. Such notice of appeal shall be presented to the Authorized Official within thirty (30) days of the appealed decision or determination.
- B. The Zoning Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the Chairman or Authorized Official and at such other times as necessary. Each session at which an appeal is to be heard shall be a public hearing pursuant to SDCL 11-4-21. At least ten (10) days prior to the date of the scheduled public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at the City Office and on the City’s website; and shall publish notice of the public hearing in a legal newspaper of the City.
- C. The public hearing shall be held. The person or persons appealing the decision may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Zoning Board of Adjustment. Written findings certifying compliance with the specific rules governing the

action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Authorized Official or Planning Commission.

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

- A. An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Zoning Board of Adjustment.
- B. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
- C. The variance requested is the minimum variance that will alleviate the hardship.
- D. Granting of the variance will comply with the general purpose and intent of this ordinance, and will not be offensive to adjacent areas or to the public welfare.
- E. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.
- F. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.
- G. In order to preserve the intent of this Ordinance as well as protect the public interest, the Zoning Board of Adjustment may attach conditions to a variance. A variance shall remain valid only as long as the property owner complies with any terms and conditions of the variance.
- H. An Application for a variance, available from the Authorized Official of the City of Canistota, shall be completed by the landowner requesting the variance.

Completed applications shall be returned to the Authorized Official for review. To be considered completed, the application shall contain the following information:

1. Legal description of the lot for which such variance is requested, together with local street address;
 2. Name and address of each owner of the lot;
 3. Name, address, phone number, and signature of the applicant if made by anyone other than the lot's owner;
 4. Zoning district classification under which the lot is regulated at the time of such application;
 5. Description of the variance sought; and
 6. Be accompanied with a site plan, unless waived by the Authorized Official.
- I. The Authorized Official shall review the application and shall make a recommendation to the Zoning Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation shall include a summary of the application and the reasons and justification for either approval or disapproval of the application.
- J. The Authorized Official shall set the date, time, and place for a public hearing to be held by the Zoning Board of Adjustment. At least ten (10) days prior to the date of the scheduled public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at the City Office, on the lot subject to the proposed variance in conformance with SDCL 11-4-4.4, and on the City's website; and shall publish notice of the public hearing in a legal newspaper of the City.
- K. The public hearing shall be held. The applicant may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Zoning Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any variance.

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

CHAPTER 15. AMENDMENTS AND CHANGE OF ZONE

15.01 Purpose. Any person, firm, or corporation desiring a change in this Ordinance shall file an application for such change with the Authorized Official. Additionally, the City Council may from time to time on its own motion, after public notice and hearing, and after a recommendation from the Planning Commission, amend, supplement, or change this Ordinance according to the provisions contained herein.

15.02 Application. In petitioning the City for an amendment or change of zone, any person, firm, or corporation shall file an application with the Authorized Official on a form as provided. Every application for a change of zone shall contain the following information:

- A. Legal description or address of the lot for which the change of zone is requested.
- B. Name, address, and phone number of the owner of the lot which is the subject of such application.
- C. Name, address, and phone number of the person making the application if made by anyone other than the lot's owner.
- D. Zoning district classification under which the lot is regulated at the time of such application.
- E. The zoning district classification requested by the application.
- F. A site plan in conformance with Article 16.03.
- G. Any other information concerning the lot as may be requested by the Authorized Official.

15.03 Information on Site Plan. Plans of sufficient clarity to indicate the location and use classification of any existing buildings shall be provided to the Authorized Official. Where applicable, all site plans required in Article 16.02(F) shall contain the following information:

- A. The legal description or address of the lot.
- B. The scale and north arrow.

- C. All existing and proposed buildings or additions.
- D. Dimensions of all buildings.
- E. Distance from all building lines to the property lines at the closest points.
- F. Building height and number of stories.
- G. Dimensions of all property lines.

Exception: The Authorized Official may waive the submission of plans, if he or she determines the nature of the request is such that reviewing of plans is not necessary to assist the Planning Commission and/or City Council in determining whether to grant the change of zone request.

15.04 Fees. Upon the filing of any application for an amendment or change of zone with the Authorized Official, the applicant shall pay the City of Canistota the appropriate fee in conformance with Chapter 17.

15.05 Procedure. The following procedures for requesting an amendment or change of zone shall be followed:

- A. The Authorized Official of the City of Canistota shall review the application for an amendment or change of zone and forward the application and his or her comments to the Planning Commission for review.
- B. The Authorized Official of the City of Canistota shall set the date, time, and place for a Planning Commission public hearing. The Authorized Official of the City of Canistota shall publish notice of the public hearing in a legal newspaper of the City and on the City's website once no less than ten (10) days prior to the public hearing. At least one (1) sign in conformance with SDCL 11-4-4.4 shall be posted on the lot for a continuous period of ten (10) days immediately prior to any public hearing held by the Planning Commission to consider any change of zone application.
- C. The public hearing shall be held. Any person or persons may appear in person, by agent, or by attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- D. The Planning Commission shall either recommend or not recommend approval of the amendment or change of zone to the City Council.
- E. The Authorized Official of the City of Canistota shall set the date, time and place for a City Council public hearing. The Authorized Official of the City of Canistota shall publish notice of the public hearing in a legal newspaper of the City and on the City's website once no less than ten (10) days prior to the public hearing. At least one (1) sign in conformance with SDCL 11-4-4.4 shall be

posted on the lot for a continuous period of ten (10) days immediately prior to any public hearing held by the City Council to consider any change of zone application.

- F. The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to this Ordinance in accordance with standard procedures for reading, approval, publication, and effective date as established by South Dakota law.
- G. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect twenty (20) days after the date of publication in a legal newspaper of the City, unless the referendum shall have been invoked.

CHAPTER 16. CONDITIONAL USE PERMITS

16.01 Purpose. The Planning Commission may authorize, by conditional use permit, those uses specifically designated as Conditional Uses in Chapters 3 through 8. The Planning Commission shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare of the community in the issuance of any conditional use permit.

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

- A. Legal description of the lot on which such conditional use is requested.
- B. Name, address, and phone number of the owner of the lot which is the subject of such application.
- C. Name, address, and phone number of the person making the application if made by anyone other than the lot's owner.
- D. Zoning district classification under which the lot is regulated at the time of such application.
- E. The use classification(s) requested by the application.
- F. A site plan in conformance with Chapter 16.04.
- G. Any other information concerning the lot as may be requested by the Authorized Official.

16.03 Fees. Upon the filing of any application for a conditional use permit with the Authorized Official, the applicant shall pay to the City the appropriate fee in conformance with Chapter 18.

16.04 Information on Site Plan. Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapter 16.02(F) shall contain the following information:

- A. The address of the lot and its legal description.
- B. The name of the project and/or business.
- C. The scale and north arrow.

- D. All existing and proposed buildings or additions.
- F. Dimensions of all buildings.
- G. Distance from all building lines to the property lines at the closest points.
- G. Building height and number of stories.
- H. Dimensions of all property lines.
- I. Parking lots or spaces: designate each space and give dimensions of the parking lot(s), stall(s), and aisle(s).
- J. Screening: show height, location, and type of material to be used.
- K. Landscaped setback and trees: indicate species of trees and material(s) to be used for landscaping.

Exception: The Zoning Administrator may waive the submission of plans, if he or she determines the nature of the work applied for is such that reviewing of plans is not necessary to assist the Zoning Board of Adjustment in determining whether to grant the conditional use permit.

Approved plans shall not be changed, modified, or altered, and all work shall be done in accordance with the approved plans.

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

The Authorized Official shall set the date, time, and place for a public hearing to be held by the Planning Commission. At least ten (10) days prior to the date of the scheduled public hearing, the Authorized Official shall notify the landowner by mail; post notices of the public hearing at the City Office, on the lot subject to the proposed conditional use permit in conformance with SDCL 11-4-4.4, and on the City's website; and shall publish notice of the public hearing in a legal newspaper of the City.

The following procedure shall be followed by the Planning Commission in considering the recommendation of the Authorized Official:

- A. The public hearing shall be held. Any person or persons may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in

the records of the Planning Commission.

- B. Before any conditional use permit shall be granted, the Planning Commission 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:
1. Ingress and egress to the lot and any proposed buildings or structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required;
 3. Refuse and service areas, with particular reference to (a) and (b) above;
 4. Utilities, with reference to locations, availability and compatibility;
 5. Screening and buffering with reference to type, dimensions and character;
 6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;
 7. Required yards and other open space;
 8. General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;
 9. The goals and objectives of the most recently adopted Comprehensive Plan.

The Planning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of this Ordinance. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Chapter 16.06.

16.06 Appeal of Planning Commission Decision. The decision rendered by the Planning Commission on a conditional use permit may be appealed to the Zoning Board of Adjustment in conformance with Chapter 14.03.

16.07 Reapplication. No applicant requesting a conditional use permit whose application involves the same or substantially the same request, project, or proposal for the same or substantially the same building or lot as that which has been denied by the Zoning Board of Adjustment shall be again considered by the Board of Adjustment before the expiration date of two (2) months from the date of the final action on the application.

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

- A. There was no public objection presented during the public hearing process for the original conditional use permit.
- B. The land uses for the surrounding lots have not significantly been altered since the original approval date for the conditional use permit.

A conditional use permit shall also expire one (1) year after the use discontinues on the lot, or the use is changed to another authorized use in the underlying district.

16.09 Review of Permit by Board of Adjustment. The following procedures shall be employed when acting upon reviews of previously approved conditional use permits:

- A. Basis for Review. Noncompliance with any of the terms, conditions, or requirements placed on a conditional use permit is sufficient cause to subject such permit to review by the Zoning Board of Adjustment.
- B. Procedure. If the Zoning Administrator is reasonably satisfied there exists any noncompliance with the terms, conditions, or requirements of a conditional use permit, the Zoning Administrator shall give written notice of such noncompliance to the person, firm, corporation, or entity to which the permit was granted. Additionally, the Zoning Administrator shall advise the Zoning Board of Adjustment of such noncompliance at its next regularly scheduled meeting. Upon such advisement, the Zoning Board of Adjustment shall set a time for review of the permit at a subsequent regularly scheduled meeting. Such review will be open to the public.
- C. Notice of Review Hearing. At least ten (10) days prior to the hearing, the following shall occur:
 - 1. The Zoning Administrator shall give written notice of the review hearing to the person or entity for whom the permit was authorized.
 - 2. The Zoning Administrator shall be responsible for posting sign(s) on the property in such a manner so as to be clearly visible from the street, road, or other public right-of-way from which entrance or access to the property is gained.

- D. Hearing. In the event the Zoning Board of Adjustment determines by a vote of two-thirds (2/3) of its members that such compliance has not been established, it may do any of the following:
1. Revoke the permit.
 2. Amend the permit.
 3. Postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions, and requirements of the permit in question.
 4. Require any other such action it deems appropriate and in accordance with the provisions of this Chapter.
- E. Effect of Revocation. Any person, firm, corporation, or entity to which a conditional use permit has been granted and subsequently revoked by the Zoning Board of Adjustment may not apply for a similar or substantially similar conditional use permit for a period of six (6) months.
- F. Appeal of Zoning Board of Adjustment Decision. The decision rendered by the Zoning Board of Adjustment related to its decision whether to revoke a conditional use permit or any amendments made thereto may be appealed to a court of competent jurisdiction in conformance with SDCL 11-4-25.

CHAPTER 17. FEES

17.01 General Regulations. The fees set forth in this Chapter shall be paid at the time of filing an application with the Authorized Official. Such fee shall be payable to the City of Canistota and under no conditions shall any fee be refunded after publication of any required legal notice or, if notice is not required, after the City has properly considered the application. No action shall be taken upon any application unless all fees have been paid.

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

CHAPTER 18. DEFINITIONS

18.01 Purpose.

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

- A. Words used in the present tense shall include the past and future.
- B. Words used in the singular number shall include the plural number; and the plural shall include the singular.
- C. The word “shall” is mandatory and not discretionary.
- D. The word “may” is permissive.
- E. The words “used” or “occupied” shall include the words “intended,” “designed,” or “arranged to be used or occupied.”
- F. The word “lot” shall include the words “plot,” “parcel,” or “tract.”
- G. The word “person” shall include a “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as an “individual.”
- H. The word “building” shall include the words “structure” and “premises.”
- I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

18.02 Definitions.

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

ACCESSORY BUILDING - A customary and incidental building or portion thereof, used in connection with the principal building or main use of the lot.

ACCESSORY USE – A use of a lot that is customary and incidental to the principal building or use.

ADULT ORIENTED BUSINESS - Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studio, as defined in SDCL 11-12-1.

AGRICULTURE - The production, keeping, or maintenance, for sale, lease or personal use, of plants and land useful to man, including, but not limited to, forages sod crops; grains and seed crops; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. This definition shall not include intensive agricultural activities such as concentrated animal feeding operations, slaughterhouses, stockyards, and rendering plants.

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

ALLEY - An alley is a public right-of-way that is used primarily for vehicular service accesses to the backs or sides of properties which otherwise abuts on the streets.

ANNEXATION - The incorporation of land into the corporate boundaries of the City of Canistota.

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

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

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

AUTHORIZED OFFICIAL - The person, officer, or official and his or her authorized representative designated by the City Council to administer this Ordinance.

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

AWNING/CANOPY - A roof-like cover, retractable or permanent, that projects from the wall of a building.

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

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

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

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

BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground and which is permanently affixed to the land.

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

BUILDING ENVELOPE - The setback lines that establishes an area on a lot in which building can occur.

BUILDING, HEIGHT - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten (10) feet of the structure.

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

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

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

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

CEMETARY - Land used for interment of human or animal remains or cremated remains, including a burial park, a mausoleum, a columbarium, necessary sale and maintenance facilities, or a combination thereof.

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

CITY - City of Canistota, South Dakota.

CITY COUNCIL – The primary governing body of the City of Canistota, South Dakota.

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

COMMENCED - Work is deemed to have commenced when the designated percentage of the value of the building permit has been expended as follows:

<u>Total Valuation</u>	<u>Required Expenditure</u>
Less Than or Equal To \$100,000	25% of value
Greater than \$100,000	10% of value

The required expenditures must be verified by written receipts, including labor costs and/or equipment hours.

COMMISSION - City Planning Commission of Canistota, South Dakota.

COMMUNITY GARDEN - Urban agriculture gardening that is a neighborhood-based garden for the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use. Sites shall be managed by an individual or groups of individuals that are responsible for maintenance. Said individual or group of individuals shall provide maintenance and management guidelines and/or agreements to the Authorized Official.

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

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

CONSUMER STORAGE BUILDING – Commercial warehouse facility designed and intended solely for the storage of personal and household items.

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

CONTAMINANT - Any “regulated substance,” as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this Ordinance and as amended from time to time, and all petroleum

products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

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

COUNTRY CLUB - A building or area typically used in association with a golf course which includes social (e.g., dining, eating, and banquet facilities) and wellness activities (e.g., tennis courts and swimming pools). Operators of country clubs may also render services customarily carried on as a business, including retailing, full-service restaurants, and on-sale and off-sale alcohol without drive-up windows.

COVENANT OR RESTRICTIVE COVENANT - Means a legal restriction on use of property or a contract between the seller and the buyer of the land affecting use of the land.

CREMATORY - A building, or portion thereof, containing a furnace for the incineration of corpses.

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

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

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

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

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

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

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

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

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

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family and multiple-family dwellings, but not including hotels, inns, motels, and manufactured homes. This definition includes prefabricated homes constructed under the *International Residential Code* (IRC). Each dwelling shall include cooking, sleeping, and sanitary facilities.

DWELLING, MULTIPLE-FAMILY - A building, or portion thereof, located on a single lot which contains two or more dwelling units.

DWELLING, SINGLE-FAMILY ATTACHED - A one family dwelling attached to at least one other one family dwelling by a common vertical party wall, with each dwelling located on a separate lot.

DWELLING, SINGLE-FAMILY ATTACHED/DUPLEX - A single-family dwelling attached to one (1) other single-family dwelling which are both located on the same lot.

DWELLING, SINGLE-FAMILY ATTACHED/TOWNHOME - A single-family dwelling attached to one (1) or more other single-family dwellings which are located either on the same lot, separate lots, or some combination thereof.

DWELLING, SINGLE-FAMILY ATTACHED/TWIN HOME - A single-family dwelling attached to one (1) other single-family dwelling which is located on a different lot.

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

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

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

EASEMENT - A right granted to another person or persons for the use of land for a limited purpose.

ELECTRONIC MESSAGE OR GRAPHIC SIGNS - Signs on which displays may be changed at periodic intervals by gradual entry and exit display modes. Messages and animation shall be displayed at periodic intervals by various modes, such as fade, dissolve, scrolling, or traveling.

ELECTRICAL SUBSTATION - A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An

electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

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

FAMILY. One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law, in addition to persons actually related by blood or law the following persons shall be considered related by blood or law for the purposes of this ordinance: (1) A person residing with the family for the purpose of adoption; (2) Not more than six (6) persons under eighteen (18) years of age, residing in a foster home licensed or approved by a governmental agency; (3) Not more than four (4) persons nineteen (19) years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency; and (4) any person who is living with the family at the direction of a court.

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

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

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

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

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

FUNERAL HOME/MORTUARY - An establishment in which the dead are prepared for burial or cremation and in which wakes and funerals may be held.

GARAGE, PRIVATE - A building or a portion of a building in which motor vehicles owned or leased by the occupants of the principal buildings are stored or kept.

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

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

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

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

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

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

GROUP HOME – A temporary residential living arrangement for persons living in an institutional setting and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from support staff who are present when residents are present.

HARDSHIP - A hardship exists if the property owner was forced to comply with the provisions of an ordinance, and he or she would be unable to make “reasonable” use of the property. The hardship must result from the unique physical characteristics of the property, rather than a personal problem or the financial needs of the owner.

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

HOME OCCUPATION – Any occupation owned and operated by a member of the immediate family residing on the premises.

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

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

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

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

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

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

LIGHT MANUFACTURING - Manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat, or glare. They are generally characterized as having all aspects of the process carried on within the building itself.

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

LOADING SPACE, OFF-STREET - Off-street loading space means a space logically and conveniently located for bulk pickups and deliveries and accessible to such vehicles when required off-street parking spaces are filled.

LOT - A parcel or tract of land having specific boundaries and which has been recorded in the County Register of Deeds Office.

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

LOT, CORNER - A lot abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than one hundred-thirty five (135) degrees.

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

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

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

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

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

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three (3) feet to any lot line.

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

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

MANUFACTURED HOME - A residential building which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. This definition does not include prefabricated homes constructed under the *International Residential Code* (IRC).

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

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

MEETING HALL – A building, or portion thereof, owned or operated by a person, group of persons, association, corporation, or other legal entity designed for temporary social, educational, or indoor recreational uses.

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

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

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully

affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

MOTOR VEHICLE PARKING LOT – An open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored.

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

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

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

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

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

NONSTANDARD USE - The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this Ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this Ordinance.

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

OFFICE - A building, or portion thereof, designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations.

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

OWNER - The recorded owners of real property in fee simple including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having fee simple legal title to the land.

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

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

PERMANENT FOUNDATION - A continuous foundation constructed of durable materials (concrete, mortared masonry, etc.) around the perimeter of a structure, which, at bottom, extends no less than forty-eight (48) inches below the surface of the ground.

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

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

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

PRINCIPAL USE - The primary or predominant use of any lot, including all buildings fundamental or essential thereto.

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

PROPERTY LINE - See (Lot Line).

PUBLIC SERVICE FACILITY - Government facilities and uses that provide an essential public purpose or service including, but not limited to, a police station, judicial court, fire station, ambulance service, transit or transportation transfer station, library, community center, public recreation facility, or office. This definition does not include public utility or treatment stations, maintenance facilities, sanitary landfills, or facilities for incarcerated persons.

PUBLIC UTILITY FACILITIES - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment necessary for conducting a service by a government or a public utility.

RECREATIONAL FACILITY - A facility open to the public, with or without fees, which is designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, including, but not limited to, swimming pools; putting greens; volleyball, tennis, and basketball courts; batting, pitching, soccer, and golf cages and nets; hockey and ice rinks; skate board ramps; trampolines; and portable flooring for aerobics, dance, and weight lifting.

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

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

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

REPAIR SHOP - Repair shop means a structure where activities may include welding, stitching, or other work intended to restore an item to working condition.

RESIDENCE - A permanent dwelling place.

RETAIL SERVICE OR TRADE BUSINESS – Commercial establishment engaged in selling products, goods, or merchandise to the general public for personal or household consumption and establishments engaged in providing services or entertainment to the general public

including, but not limited to, restaurants, arcades, repair shops, gyms, health spas, grocery stores, and sporting goods stores.

RESTAURANT - An establishment where food and drink is prepared, served, and may be consumed on the premises.

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

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

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

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

SIGN, PORTABLE - A sign used for temporary advertising which is on wheels and portable.

SIGN AREA - The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

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

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

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

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

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

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

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

STORY - The portion of a building between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

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

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

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

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

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

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

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

TELECOMMUNICATIONS TOWER - A self-supporting lattice, guyed-lattice, or monopole structure which supports wireless communications facilities. The term includes new and existing towers that are used for services such as microwave, common carrier, cellular telephone, personal communication services, two-way radio paging, and other similar services. The term

telecommunications tower does not include amateur radio operators' equipment, as licensed by the Federal Communications Commission.

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

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

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

TRAVEL TRAILER - Means any of the following:

1. **Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight feet, and a body length not exceeding thirty feet.
2. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
3. **Motor-Home.** A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as any integral part of a self-propelled vehicle.
4. **Camping Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

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

TRUCK AND FREIGHT TERMINAL - An area and/or building(s) where trucks and cargo are stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of motor vehicles is performed.

VARIANCE - The authorization, following a hearing, for a lot owner to depart from certain requirements of a zoning ordinance within the limits as authorized by this Ordinance.

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

WASTE - Any garbage, refuse, sludge from a waste treatment plant, waste supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or from community activities, but does not include solid or dissolved

materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

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

WIND ENERGY CONVERSION SYSTEM (WECS). Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.

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

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

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

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

YARD LINE - See (Building Line).

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

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

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

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

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

ZONING MAP - Any map adopted as an ordinance by the municipality that defines the extent of each district or zone established in the zoning ordinance.

ZONING ORDINANCE - A set of land use regulations enacted by the local governing body to create districts, which permit certain land uses and prohibits others. Land uses in each district are regulated according to type, density, height, and the coverage of buildings.