

# **JERAULD COUNTY ZONING ORDINANCE**

**Adopted  
September 1, 1998**

**Rewrite  
May 9, 2005**

**Prepared by:  
Planning and Development District III**

# **COUNTY OFFICIALS**

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## Jerauld County Zoning Ordinance District Lot Requirements

District	Lot Area	Minimum Lot Width	Minimum Front Yard Depth	Minimum Rear Yard Depth	Minimum Side Yard Width
Agricultural	1 Acre		75 Feet	50 Feet	125 Feet
Rural Residential	.5 Acre		75 Feet	10 Feet	25 Feet
Rural Commercial	1 Acre	150 Feet	75 Feet	25 Feet	25 Feet

## Building Permits

**NOT REQUIRED  
For:**

- 1) **Semi-Portable Agricultural Structure**
  - \* **Feed Bunks and Water Tanks**
  - \* **Calving, Lambing or Farrowing Sheds**
  - \* **Temporary Grain Storage Facilities**
- 2) **Remodeling That Does Not Increase the Size of a Structure.**
- 3) **Fences and Signs**
- 4) **Planting of Trees and Shrubs**
- 5) **Private Wells, Stock Dams, Irrigation Facilities, Rural Water Service Lines and Household Septic Systems Provided, They Follow DENR Rules.**

**REQUIRED For:**

- 1) **Erecting a NEW Structure or Building**  
(Example: Contracting a new home or machine shed.)
- 2) **Moving a Structure or Building**  
(Example: Putting a Mobile Home on a lot.)
- 3) **Adding to a Structure or Building.**  
(Example: Constructing a deck or room addition to a home.)
- 4) **Changing the Principal use of a Structure or Building.**  
(Examples: Using a rural house solely as a commercial business or Farm to Commercial Elevator.)

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## DEFINITIONS

### Definitions

For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall means mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

### Terms

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

#### Accessory Use or Structure

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

#### Actual Construction

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

#### Agriculture

The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards.

The raising and feeding of livestock and poultry shall be considered an agricultural use if the area in which the livestock or poultry is kept is twenty (20) acres or more in area.

An animal feeding operation primarily for the growing and/or finishing of livestock is not considered an agricultural use. The processing and/or storage of raw agricultural products, including facilities such as grain elevators and ethanol plants, shall not be considered an agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agriculture Product Processing Facility

A business activity customarily designed to process raw agricultural products into value added products. Agricultural processing facilities include, but are not limited to; feed mills, ethanol plants, soy bean processing facilities, packing plants and rendering facilities.

Animal Feeding Operation

An animal feeding operation that stables confines, and feeds or maintains animal units in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership are a single animal operation if they adjoin each other, are within one mile, or if they use a common area or system for the disposal of manure.

For the purpose of these regulations, Animal Feeding Operations are divided into the following Classes:

<u>CLASS</u>	<u>ANIMAL UNITS</u>
Class A	1,000 or more
Class B	500 - 999

Animal Units

A unit of measure for livestock equated as follows; one animal unit is equivalent to:

- 1 cow, feeder, or slaughter beef animal, excluding calves under 300 pounds;
- 1 horse, excluding colts one year and/or under;
- .7 mature dairy cattle, excluding dairy calves under 300 pounds;
- .27 farrow to finish sows;
- 2.13 swine in a production unit (breeding, gestating, farrowing);
- 10 nursery swine less than 55 pounds;
- 2.5 swine over 55 pounds;
- 10 sheep or lambs;
- 30 laying hens or broilers;
- 5 ducks; and
- 55 turkeys.



Animal Unit Conversion Table

A conversion table designed to integrate the definition of an animal feeding operation with the animal unit (AU) definition.

<u>Species</u>	<u>500 AU</u>	<u>1000 AU</u>
Cow, feeder, or slaughter beef animal	500	1,000
Horses	500	1,000
Mature Dairy Cattle	350	700
Farrow to Finish Sows	135	270
Swine in a Production Unit	1,065	2,130
Nursery Swine Less than 55 Pounds	5,000	10,000
Swine Over 55 Pounds	1,250	2,500
Sheep	5,000	10,000
Laying Hens or Broilers	15,000	30,000
Ducks	2,500	5,000
Turkeys	27,500	55,000

Automobile Service Station

Building and premises where motor fuel, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where, in addition, customary repair services may be rendered.

Buildable Area

The portion of a lot remaining after required yards have been provided.

Building

Any structure for the support, shelter and enclosure of persons, animals, chattels, or moveable property of any kind.

Commercial Trucking Terminal

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

Conditional Use

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

Domesticated Large Animals

Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the

species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches, such as cattle, horses, hogs, and mules.

Dwelling Unit

One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

Dwelling, Multiple Family

A residential building designed for, or occupied by, two (2) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single Family

A detached residential dwelling unit including manufactured and mobile homes, designed for or occupied by one (1) family only.

Family

Any number of individuals living together as a single housekeeping unit, in which not more than four (4) individuals are unrelated by blood, marriage or adoption.

Farm, Ranch, Orchard

An area of twenty (20) acres or more which is used for growing usual farm products, vegetables, fruits, trees, and grain, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep, and including the necessary accessory uses for raising, treating, and storing products raised on the premises; but excluding an Animal Feeding Operation.

The processing and storage of raw agricultural products, such as grain elevators and ethanol plants, shall not be considered a farm, ranch or orchard if such constitutes the main or principal use on the lot or parcel

Farm Building

All buildings and structures needed in agricultural operation, including dwellings for owners, operators, farm laborers employed on the farm, and other family members.

Farm Occupation

A business activity customarily carried out on a farm by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal farm operations, without the employment of persons not residing in the home, which does not cause the generation of excessive traffic in the area. Farm occupations include, but are not limited to, seed sales and custom combining support facilities.

Fishery

As defined by South Dakota Administrative Rules, Sections 74:03:03:02, 74:03:03:03 and 74:03:04:02 (August 8, 1994). Jerauld County as described in Sections 74:03:03:39 and 74:03:04:19. Crow Lake (Section 74:03:03:03(6)) is a warmwater marginal fish life propagation water and Firesteel Creek, from State Highway 34 south to the Jerauld County line and Sand Creek from the Beadle county line to the Sanborn county line are warmwater semipermanent fish life propagation waters (74:03:04:02 (5)). This definition shall also include that portion of Twin Lake within Jerauld County defined within Section 74:03:03:58 (5), warmwater semipermanent fish life propagation water.

#### Flammable or Combustible Liquids, or Hazardous Material

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

#### Game Farm

An area of five (5) acres or more which is used for producing hatchery raised game and nondomestic animals for sale to private shooting preserves.

#### Game Lodge

A building or group of two (2) detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and/or fishermen, who are lodged, with or without meals, for compensation (monetary or otherwise), and in which there is a sleeping room or rooms available for two (2) or more sportsmen, hunters and/or fisherman.

#### Grain Elevator

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

#### Hobby Farm

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

The raising and feeding of livestock and poultry shall be considered as part of a hobby farm if the area, in which the livestock or poultry is kept, is two (2) acres or more in area for every two (2) domesticated large animals, and if such livestock does not exceed ten (10) animals; or the raising of livestock and poultry is incidental or supplemental to the residential use and is not primarily for the growing of crops or raising of livestock.

Home Occupation

A business activity customarily carried on in the home by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal household operations, without the employment of persons not residing in the home, which does not cause the generation of excessive traffic in the area.

Horticulture

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

Junkyard

A place where nonrecyclable waste, having no economic value, or waste which is recyclable, but has no chance of being recycled is deposited.

Kennel

Any place where five (5) or more dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept or sold for commercial purposes.

Lot

Land occupied or to be occupied by a building and its accessory building(s) having its principal frontage upon a public street or officially approved place.

Lot Depth

The average horizontal distance between the front and rear lot lines.

Lot Frontage

The portion of the lot nearest the road. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to roads shall be considered frontage, and yards shall be provided as indicated under Yards in this article.

Lot Width

The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth or the same distance measured at the front building line.

Manufactured Home

A moveable or portable dwelling which is eight (8) feet or more in width and thirty-two (32) feet or more in length, constructed on a chassis, and which is designed to be towed, designed for year-round occupancy, primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units, separately transportable, but designed to be joined together into one integral unit.

The following shall not be included in this definition:

- a) Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.
- b) Manufactured modular housing which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems.

Manufactured (Mobile) Home Park

A parcel of land under single ownership which has been planned and improved for the placement of manufactured (mobile) homes for non-transient use.

Manufacturing

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

Mobile Home

See Manufactured Home

Modular Home

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

Obstruction

Any structure or vegetation that blocks the complete vision of people.

Private Shooting Preserves

An acreage of at least one hundred and sixty (160) acres and not exceeding one thousand two hundred and eighty (1,280) acres either privately owned or leased on which hatchery raised game is released for the purpose of hunting, for a fee, over an extended season.

Salvage Yard

The use of more than two (2) acres of open storage on any lot, portion of lot, or tract of land for the sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

Semi-Portable Agricultural Structures

Anything which requires placement on the ground for agriculture related purposes. Semi-portable agricultural structures include, but are not limited to, feed bunks, calving, lambing, or farrowing sheds, and temporary grain storage facilities.

Street Line

The right-of-way line of a street or road.

Structure

Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings, mobile homes, and waste containment facilities. This definition does not include semi-portable agricultural structures.

Variance

A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district or because of conditions created by the landowner.

Vegetation

The collective plant life of the area or region. Vegetation shall include all plant life such as grass, forage, crops, non-noxious weeds, shrubs and trees. Noxious weeds, as defined by the State of South Dakota and/or Jerauld County shall not be included in this definition.

Yard

An open space at grade, other than a court or plaza, between a structure and the adjacent lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

Yard, Front

An open, unoccupied space on a lot facing a street and extending across the front of the lot between the side lot lines. Measured from the road right of way to the structure.

Yard, Side

An open, unoccupied space on the same lot with a building situated between the building and side line of the lot and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a side line.

Yard, Rear

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

**ARTICLE 1**  
**JURISDICTION**

Section 101            General

This ordinance may be known and may be cited and referred to as “The Zoning Ordinance of Jerauld County, South Dakota”, to the same effect as if the full title were stated.

Section 103            Jurisdiction

The provisions of this ordinance shall apply within the unincorporated territory of Jerauld County, South Dakota, provided, however, that this ordinance shall not apply to that area inside the corporate limits, as now or hereafter fixed, of the:

Town of Alpena, South Dakota.

Town of Lane, South Dakota.

City of Wessington Springs, South Dakota.

Section 105            Provisions of this Ordinance Declared to be the Minimum Requirements

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this ordinance require a greater width or size of yards, courts or other spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required, in any other ordinance, the provisions of this ordinance shall govern. Wherever the provisions of any other ordinance require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this ordinance, the provisions of such ordinance shall govern.

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## ARTICLE 2

### APPLICATION OF DISTRICT REGULATIONS

Section 201            General

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

Section 203            Zoning Affects Every Building and Use

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

Section 205            Performance Standards

No building or other structure shall hereafter be erected or altered:

1. to exceed the height or bulk;
2. to accommodate or house a greater number of families or animal units;
3. to occupy a greater percentage of lot area;
4. to have narrower or smaller rear yards, front yards, side yards, or other open spaces;

Section 207            Open Space or Off-Street Parking or Loading Space

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

Section 209            Yard and Lot Reduction Prohibited

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

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### ARTICLE 3

#### ESTABLISHMENT OF DISTRICTS

Section 301            Districts Created

For the purpose of this ordinance, there are hereby created eight (8) types of districts by which the jurisdictional area defined in Section 301 shall be divided.

- |    |                   |
|----|-------------------|
| AG | Agricultural      |
| RR | Rural Residential |
| RC | Rural Commercial  |

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## ARTICLE 4

### OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION

#### Section 401            General

The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the County Commission, attested by the County Auditor, and bearing the seal of the County, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 401 of ordinance No. 98-4 of Jerauld County, South Dakota," together with the date of the adoption of this ordinance.

#### Section 403            Zoning Map Changes

If, in accordance with the provisions of this ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Commission, with an entry on the Official Zoning Map as follows: "on [date], by official action of the County Commission, the following [change] changes were made in the Official Zoning Map: [brief description of nature of change]," which entry shall be signed by the Chairman of the County Commission and attested by the County Auditor. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Section 1403.

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

#### Section 405            Zoning Map Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Commission may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original

Official Zoning Map, or any subsequent amendment thereof.

The new Official Zoning Map shall be identified by the signature of the Chairman of the County Commission attested by the County Auditor, and bearing the seal of the County, under the following words:

“This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as part of Ordinance No. 98-4 of Jerauld County, South Dakota.”

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

Section 407                      Rules for Interpretation of District Boundaries

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

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

boundaries.

## ARTICLE 5

### AGRICULTURAL DISTRICTS (AG)

#### Section 501            Intent

The intent of Agricultural Districts (AG) is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment should be continued, and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

The further intent of establishing the Agriculture District is to protect the natural resources and the environment of Jerauld County from possible or potential abuse and to protect the health, safety, and general welfare of Jerauld County. The purpose is to provide for compatible uses within the district.

#### Section 503            Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Agricultural Districts (AG):

1. agriculture;
2. farm;
3. ranch;
4. orchard;
5. farm occupations;
6. public parks and public recreational areas;
7. farm buildings;
8. farm drainage and irrigation systems, flood control and watershed structures and erosion control devices meeting all county, state, and soil conservation district regulations;
9. historic sites;
10. veterinary services;
11. off-site and on-site signs; (see supplemental regulations)
12. cemeteries;
13. schools and daycare facilities;
14. single-family dwellings;
15. shelterbelts; (see supplemental regulations)



16. stock dams;
17. hobby farms;
18. farm products warehousing and storage;
19. automobile and machinery sales, repair and services;
20. contract construction services;
21. horticulture; and
22. airports.

Section 505                      Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in the Agricultural District (AG):

1. roadside stands for sales of farm products, fish bait, fireworks and other approved products;
2. home and farm occupations; and
3. accessory uses, not specifically regulated by ordinance and structures customarily incidental to permitted uses and structures when established within the space limits of this district.

Section 507                      Conditional Uses

After the provisions of this ordinance relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in Agricultural Districts (AG):

1. utility substations, television, radio, telephone relay stations, towers, water towers, wind towers, and wind generators;
2. fairgrounds, race tracks, and amusement parks;
3. golf courses, country clubs, and golf driving ranges;
4. amphitheaters, stadiums, arenas, and fieldhouses;
5. go-cart tracks, riding stables, playfields, athletic fields, bowling alleys, swimming pools;
6. agricultural product processing facilities;
7. grain elevators;
8. municipal sewage disposal and/or treatment sites, animal feeding operation lagoons and holding facilities;
9. commercial trucking terminals;
10. sales and auction yards and barns;

11. private or commercial outdoor recreation areas;
12. extraction of sand, gravel, or minerals provided such uses meet requirements for conducting surface mining activities of SDCL 45-6B;
13. game farms;
14. wildlife and game production areas;
15. animal feeding operations;
16. salvage yards;
17. junk yards;
18. bed and breakfast operations;
19. sanitary landfills;
20. kennels;
21. campgrounds;
22. multi-family dwellings;
23. additional farm dwellings;
24. churches, synagogues and temples;
25. aquaculture;
26. private shooting preserves;
27. game lodges;
28. libraries, museums and exhibition halls; and
29. manufacturing.

Section 509                      Prohibited Uses and Structures

All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from Agricultural Districts (AG).

Section 511                      Minimum Lot Requirements

The minimum lot area per single-family dwelling unit shall be one acre; one additional farm dwelling, occupied by a member of the farm unit and under common ownership may share a parcel.

Additional dwelling units, over two may be allowed if they are to be occupied by other members of the family farm unit, the Board of Adjustment may reduce the required area following the procedures of a conditional use.

The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.

Section 513                      Minimum Yard Requirements for Dwellings and Mobile Homes

There shall be a front yard of not less than a depth of seventy-five (75) feet. There shall be a rear yard of not less than a depth of fifty (50) feet. There shall be two (2) side yards, each of which shall not be less than one hundred twenty five (125) feet. This shall apply to all dwellings.

The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.

Section 515                      Maximum Height

The height of single-family dwelling units shall not exceed thirty-five (35) feet.

Section 517                      Prohibition of View Obstruction

There shall be no obstruction, such as buildings, grain bins, shelter belts, farm equipment and machinery, hay bales, hay stacks, silage piles or other objects that may cause view obstruction, snow build-up or safety hazards within seventy five (75) feet of the road right-of-way line. The purpose of this Section is to keep the right-of-ways free and clear of snow build-up and, further, to promote traffic safety along road right-of-ways and at intersections.

**CLASS A** (1,000 and above) Animal Feeding Operations

Are considered conditional uses and shall comply with the Conditional Use process and Section 519 number(s) 1,2,3,4,5(a),6,7,8, 9 and 10, in addition to all applicable State and Federal requirements.

**CLASS B** (500 - 999)                      Animal Feeding Operations

Are considered conditional uses and shall comply with the Conditional Use process and Section 519 number(s) 3,4,5(b),6,7,8 9 and 10, in addition to all applicable State and Federal requirements.

Section 519

Animal Feeding Operations Performance Standards

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources.
2. Prior to construction, such facilities shall obtain a storm water permit for construction activities from the South Dakota Department of Environment and Natural Resources. The storm water pollution prevention plan required by the permit must be developed and implemented upon the start of construction.
3. Animal confinement and waste facilities shall comply with the following facility setback requirements:
  - a. Public Wells 1,000 feet
  - b. Private Wells (other than producers) 250 feet
  - c. Private Wells (producers) 150 feet
  - d. Federal and State Road ROW 300 feet
  - e. County and Township Road ROW
    1. The lagoon or waste treatment site 200 feet
    2. The building and feedlot 100 feet
  - f. Designated 100 Year Floodplain Prohibited
4. Applicants must present a nutrient management plan, approved by the Department of Environment and Natural Resources as part of the initial conditional use application.

Examples of such management shall include at least:

- a. Proposed maintenance of holding ponds.
  - b. Land application process and/or methods.
  - c. Legal description and map, including documented proof of area to be utilized for nutrient application.
5. Animal Feeding Operations and Waste Facilities shall be sited no closer than the following regulations prescribe from any incorporated municipality:
    - a. Class A 10,560 feet

- b. Class B 10,560 feet
- 6. Animal Feeding Operations and Waste Facilities shall be sited no closer than the following regulations prescribe from any incorporated municipality: church, Crow and Twin Lakes, as defined, or residential dwelling; one dwelling unit is allowed on the facility site:
  - a. Class A 5,280 feet
  - b. Class B 5,280 feet

The owner of a residential dwelling or animal feeding operation may request the Board of Adjustment to review the facility, dwelling, or church and the Board may, by variance, waive or decrease the required separation distance. The owner and/or occupant of a residential dwelling site affected by this provision must sign a written waiver or consent stipulating and agreeing to the decreased required separation distance. The owner and current occupant(s) (adult occupants) must both sign the waiver and consent, and such must be placed on file with the Board of Adjustments. The owner of the residential dwelling site must also sign an easement approved by the Board of Adjustment and such easement must then be recorded with the County Register of Deeds in order that any future owners can be informed.

- 7. Animal Waste treatment or containment facilities shall comply with one of the following criteria:
  - a. All containment facilities such as above ground slurry stores and external concrete pits must be covered by a scientifically proven odor reduction cover, either permanent or biodegradable, and approved by the Board of Adjustment. Single stage earthen containment structures such as holding basins are not acceptable structures and shall not be allowed.
  - b. Scientifically proven solids separation treatment facilities such as mechanical separators and multi cell lagoons, approved by the Board of Adjustment shall be allowed as waste treatment alternatives. A scientifically proven cover is not required on these facilities.
- 8. Animal waste shall be transported no further than five (5) miles from the point of origination for land application.
- 9. Animal Waste Facilities will be reviewed by the Board of Adjustment. Upon review additional design and site development specifications may be required.
- 10. Animal Feeding Operations shall prepare a facility management plan. The plan shall be designed to dispose of dead animals, manure and wastewater in such a manner as to control odors and flies.
  - a. The County Board of Adjustment will review the need for control

measures on a site specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors should be considered in a management control plan.

- b. Operational plans for manure collection, storage treatment and use must be kept updated and implemented.
- c. Methods to be utilized to dispose of dead animals should be included in the management plan.
- d. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds, and/or lagoons.
- e. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
- f. Remove manure from open pens as frequently as possible to minimize odor production.
- g. Consider use of covers on open storage systems for liquid manure systems to reduce odor production.
- h. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities.
- i. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.

11. Manure generated from Animal Feeding Operations shall be incorporated, within twenty four (24) hours or injected and shall comply with the following manure application setback requirements:

- a. Public Wells 1,000 feet
- b. Private Wells (other than producers) 250 feet
- c. Private Wells (producers) 150 feet
- d. Lakes, Rivers, and Streams Classified as Fisheries 250 feet
- e. Federal and State Road ROW 10 feet
- f. County and Township Road ROW 10 feet
- g. Designated 100 Year Floodplain Permitted

h. Incorporated Municipalities, Churches or Dwellings 750 feet

12. Non-liquid manure generated from Animal Feeding Operations may be surface applied and shall comply with the following manure application setback requirements:

- a. Public Wells 1,000 feet
- b. Private Wells (other than producers) 250 feet
- c. Private Wells (producers) 150 feet
- d. Lakes, Rivers, and Streams Classified as Fisheries 250 feet
- e. Federal and State Road ROW 10 feet
- f. County and Township Road ROW 10 feet
- g. Designated 100 Year Floodplain Permitted
- h. Incorporated Municipalities, Churches or Dwellings 750 feet

## ARTICLE 6

### RURAL RESIDENTIAL (RR)

#### Section 601            Intent

The intent of Rural Residential Districts (RR) is to provide for residential uses of small lots and other compatible uses in a pleasant and stable environment.

#### Section 603            Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Rural Residential Districts (RR):

1. single-family dwellings;
2. horticulture;
3. shelterbelts; and (see supplemental regulations)
4. governmental services.

#### Section 605            Permitted Accessory Uses and Structures

1. home occupations and professional offices; and
2. accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

#### Section 607            Conditional Uses

After the provisions of this Ordinance, relating to exceptions have been fulfilled, the Planning Commission may permit as exceptions in High Density Rural Residential Districts (RR):

1. convenience stores;
2. golf courses and country clubs;
3. hobby farms;
4. multi-family dwellings;
5. churches, synagogues, and temples;
6. schools and daycare facilities;
7. public recreational and park facilities;
8. utility substations; and



9. convalescent, nursing, and rest homes.

Section 609                      Prohibited Uses and Structures

All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from Rural Residential Districts (RR).

Section 611                      Minimum Lot Requirements

The minimum lot area shall be one-half (.5) acres for a single-family dwelling unit. The minimum lot area for a multi-family dwelling unit shall be ten thousand (10,000) square feet per unit.

Section 613                      Minimum Yard Requirements

There shall be a front yard of not less than a depth of seventy-five (75) feet. There shall be a rear yard of not less than a depth of ten (10) feet. Each side yard shall not be less than twenty-five (25) feet. This shall apply to all buildings and structures, including decks, patio, and car ports.

## ARTICLE 7

### RURAL COMMERCIAL DISTRICT (RC)

#### Section 701            Intent

The intent of the Rural Commercial District (RC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to a major vehicular circulation route due to the nature of the merchandise handled and the display space required, particularly items requiring expansive display area such as motor vehicles, trailers, and farm implements; the method of transport required of the purchaser for the merchandise handled, particularly goods customarily traded in bulk such as lumber or feed requiring access for the customer to the sales area; primary dependence upon vehicular, as opposed to pedestrian, access such as drive-in facilities and all types of automotive and farm implement services; or the clientele toward which the establishments are primarily oriented.

#### Section 703            Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Rural Commercial Districts (RC):

1. retail sales;
2. convenience stores;
3. wholesale sales;
4. funeral and crematory services and supplies;
5. farm products warehousing and storage;
6. refrigerated warehousing;
7. household goods warehousing and storage;
8. general warehousing and storage;
9. automobile and machinery sales, repair and services;
10. veterinary services;
11. contract construction services;
12. bus garaging and equipment maintenance;
13. motor freight terminals, garaging, maintenance;
14. libraries; museums and exhibition halls;
15. miniature golf, gymnasiums and athletic clubs, swimming pools, tennis courts, ice skating, roller skating;
16. parks;

17. shelterbelts; (see supplemental regulations)
18. theaters; stadiums; drive-in movies; arenas and field houses; race tracks; fairgrounds; amusement parks, golf driving ranges; go-cart tracks; golf courses and country clubs; riding stables; playfields and athletic fields; bowling; and swimming pools;
19. communication and utility uses;
20. automobile service stations;
21. manufacturing;
22. motels; and
23. off-site and on-site signs. (see supplemental regulations)

Section 705                      Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in Rural Commercial District (RC):

Accessory uses normally appurtenant to the permitted principal uses and structures when established in conformance within the space limits of this district.

Section 707                      Conditional Uses

After the provisions of this resolution relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in the Rural Commercial District (RC):

1. other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;
2. campgrounds;
3. any facility engaged in the manufacture, wholesale distribution, retail sale or storage of flammable or combustible liquids, or hazardous material; and
4. grain elevators.

Section 709                      Prohibited Uses and Structures

All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the Rural Commercial Districts (RC).

Section 711                      Minimum Lot Requirements

The minimum lot area shall be one acre. The minimum lot width shall be one hundred and fifty (150) feet.

Section 713                    Minimum Yard Requirements

There shall be a front yard of not less than a depth of seventy-five (75) feet. There shall be a rear yard of not less than a depth of twenty five (25) feet. Each side yard shall be not less than twenty-five (25) feet.

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## ARTICLE 8

### NON-CONFORMANCE

#### Section 801            General

Within the districts established by this ordinance or amendments that may later be adopted, there exists (a) lots, (b) structures, (c) uses of land and structures, and (d) characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment; it is the intent to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

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

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

#### Section 803            Nonconforming Lots of Record

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

Section 805                      Nonconforming Uses of Land (or Land with Minor Structures Only)

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

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
3. If any such nonconforming use of land ceases, for any reason, for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located; and
4. No additional structure, not conforming to the requirement of this ordinance, shall be erected in connection with such nonconforming use of land.

Section 807                      Nonconforming Structures

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

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

Section 809

Nonconforming Uses of Structures or of Structures and Premises in Combination

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

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



Section 811

Uses Under Conditional Use Provisions are Conforming Uses

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

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

## ARTICLE 9

### SUPPLEMENTARY DISTRICT REGULATIONS

#### Section 901            Visibility at Intersections

On a corner lot in all districts, except Commercial and Agricultural, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.

#### Section 903            Height Regulations

The height limitations contained in this ordinance shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, domes, chimneys, grain elevators, and other accessory agricultural structures or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

#### Section 905            Parking and Storage of Certain Vehicles

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

#### Section 907            Signs

Pursuant to SDCL 31-29 all property adjacent to Federal and State Highways is zoned commercial for the sole purpose of signs. This provision shall only apply to those lands lying within one mile on either side of the corporate boundaries of a municipality. Signs may also be placed within one mile of a business lying outside of a municipality's corporate boundaries provided the sign will be placed on the same side of the road as the business.

#### Section 909            Shelterbelts

Shelterbelts shall be planted no closer than fifty (50) feet from the road or street right of way, and that shelter belts at intersections shall be planted no closer than seventy-five (75) feet from the road or street right of way.

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## ARTICLE 10

### ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

#### Section 1001            Provision for Zoning Administrator

An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Jerauld County Commission shall administer and enforce this ordinance. They may be provided with the assistance of such other persons as the County Commission may direct.

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

#### Section 1003            Right of Entry

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

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

#### Section 1005            Jerauld County Planning Commission

The Jerauld County Commission shall appoint a Planning Commission of five members, the total membership of which shall be an uneven number and at least one member of which shall be a

County Commissioner. The term of each of the appointed members of the Planning Commission shall be for five (5) years. When the Planning Commission is first appointed the lengths of the terms shall be varied so that no more than one (1) of the terms shall expire in the same year. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine. The Chairman, or in their absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

Upon notification of a proposed revision, modification, change or amendment to the zoning ordinance or any part thereof the Planning Commission shall schedule a public hearing. Said public hearing shall not be held less than ten (10) days after notice has been published in a newspaper of general circulation in the area affected. Any person may appear and request or protest the proposed change.

The Planning Commission shall keep a record of all proceedings, including minutes showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Zoning Administrator. The Planning Commission shall adopt from time to time, subject to the approval of the County Commission, rules and regulations as it may deem necessary for the conduct of its affairs and to carry the appropriate provisions of this ordinance into effect.

Section 1007                      Jerauld County Board of Adjustment

The Jerauld County Planning Commission shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all requests for variances, conditional uses and zoning appeals. The Board of Adjustment may, in specific cases to avoid unwarranted hardship which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, make upon an affirmative vote of two-thirds of the full membership of the Board of Adjustment, conditional uses or grant variances to the terms of the regulations or controls, subject to appropriate conditions or safeguards being adopted by the County Commission.

The County Commission shall appoint a secretary to the Board of Adjustment the secretary shall attend all meetings, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning cases shall be held at the call of the Chairperson and at such other times as the Board shall determine. Such Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

Section 1009                      Jerauld County Commission

The Jerauld County Commission may amend, supplement, change, modify, or repeal any regulation, restriction, boundary, or enforcement provision established in the comprehensive plan or adjuncts thereto. The County Commission shall forward a copy of the proposed changes to the Planning Commission for public review. Upon receipt of the comments from the Planning Commission the County Commission shall publish a notice of public hearing once a week for

two successive weeks in a newspaper of general circulation in the area affected. The County Commission shall thereafter either adopt or reject such amendment, supplement, change, modification, or repeal. If adopted the County Commission shall direct the Planning Commission to prepare a summary of the action. Upon completion of the summary the states attorney shall review same and direct the County Auditor to have said summary published once in the official newspaper.

Section 1011                    Building Permits Required

No building or other structure shall be erected, moved, added to, or use changed without a permit issued by the Zoning Administrator. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this ordinance unless they received a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this ordinance.

Section 1013                    Applications for Building Permits, Conditional Uses and Variances

All applications for building permits, conditional uses and variances must be signed or approved in writing by the owner of record. In the event the owner of record has a binding purchase agreement contingent on the approval of the building permit, conditional use or variance the potential purchaser may submit and sign all documents required for application. All building permit applications shall be accompanied by a site plan including but not limited to the following items; drawn to scale, including a north arrow, showing the property lines, actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Refer to document entitled Site Plan Requirements for a detailed example of site plan requirements.

The application shall include such other information as may be lawfully required by the Zoning Administrator, including: existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, rental units, or animal units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.

One copy of the plans shall be returned to the applicant by the Zoning Administrator after they shall have marked such copy either as approved or disapproved and attested to same by their signature on such copy. If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The original and one copy of the plans, similarly marked, shall be retained by the Zoning Administrator. The issuance of a building permit, shall, in no case, be construed as waiving any provisions of this ordinance.

Section 1015                    Expiration of Building Permits, Conditional Uses and Variances

If the work described in any building permit, conditional use or variance application has not begun within one hundred and eighty (180) days or has not been substantially completed within

two (2) years of the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator and written notice thereof shall be given to the persons affected. The notice shall state that further work as described in the canceled permit or application shall not proceed unless, and until, a new building permit, conditional use or variance application has been approved and all required fees have been paid.

Section 1017                    Construction and Use to be as Provided in Application, Plans, Permits, and Application for Zoning Compliance

Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable as provided by Section 1403 of this ordinance.

Section 1019                    Schedule of Fees, Charges, and Expenses

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

Section 1021                    Building Permit in a Conspicuous Place

All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction of work described.

Section 1023                    Bad Actor Legislation

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

## ARTICLE 11

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

#### Section 1101            Members, Terms, Meetings, Rules

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

All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record. The Board of Adjustment shall adopt from time to time, subject to the approval of the County Commission, such rules and regulations as it may deem necessary to carry the appropriate provisions of this ordinance into effect.

#### Section 1103            Appeals to Board of Adjustment, Record of Appeals, Hearing, and Stays

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

#### Section 1105            Board of Adjustment Hearings and Notice

Each session of the Board of Adjustment at which a hearing is held shall be a public meeting with notice of hearing to be published at least ten (10) days prior to the date of the hearing in a legal newspaper.



Section 1107

Powers and Duties

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

APPEALS:

- A. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map. An appeal will not be heard until:
1. The applicant or any other person aggrieved by the decision of an administrative official or agency shall file a written appeal with the Zoning Administrator within five working days of the decision.
  2. The administrative official or agency from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken.
  3. Written notice shall be given to the appellant seven days prior to meeting.
  4. The administrative official or agency shall present their decision to the Board of Adjustment for review.
  5. The Board of Adjustment shall either uphold, overrule or amend the decision of the Zoning Administrator

CONDITIONAL USES

- B. The Board of Adjustment shall have the power to hear and decide, in accordance with the provisions of this ordinance, requests for conditional uses or for decisions upon other special questions upon which the Board of Adjustment is authorized by this ordinance to pass; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this ordinance. A conditional use shall not be granted by the Board unless and until:
1. A written application, pursuant to Section 1013 for a conditional use is submitted, indicating the section of this ordinance under which the conditional use is sought and stating the grounds on which it is requested;

2. Notice of public hearing shall be given at least ten (10) days in advance by publication in a legal newspaper. The owner of the property for which the conditional use is sought or his agent shall be notified by mail.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
4. The Board of Adjustment shall make a finding that it is empowered under the section of this ordinance described in the application to grant the conditional use, grant with conditions, or deny the conditional use, and that the granting of the conditional use will not adversely affect the public interest;
5. Before any conditional use is granted, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - a) ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - b) off-street parking and loading areas where required; with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the conditional use on adjoining properties and properties generally in the district;
  - c) refuse and service areas, with particular reference to the items in (a) and (b) above;
  - d) utilities, with reference to locations, availability, and compatibility;
  - e) screening and buffering with reference to type, dimensions, and character;
  - f) signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
  - g) required yards and other open spaces;

- h) general compatibility with adjacent properties and other property in the district;

## VARIANCES

- C. The Board of Adjustment shall have the power to hear requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to grant such variances only when the following provisions apply:
1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
  2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance.
  3. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application, pursuant to Section 1013 for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district.
  4. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
  5. Notice of public hearing shall be given as in Section 1107 (B)(2); the public hearing shall be held. Any party may appear in person for by agent or by attorney; the Board of Adjustment shall make findings that the requirements

of this Section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 1403 of this ordinance.
7. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

- D. The Board of Adjustment has the powers of a Zoning Administrator on Appeals and Reversing Decision of the Zoning Administrator.

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

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

- E. Any persons, jointly or severally aggrieved by a decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the municipality, may appeal to the County Commission and by a majority vote reverse any decision of the Board of Adjustment. The applicant or any other person aggrieved by the decision of the Board of Adjustment shall file a written appeal with the County Auditor within five working days of the Board of Adjustment decision. The County Auditor shall present the Board of Adjustment's decision to the County Commission for review. Notice of the meeting shall be given as required by Section 1107 B(2). Review may be sought by a court of record of such decision, in a manner provided by the laws of the State of South Dakota.

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## ARTICLE 12

### DUTIES OF THE ZONING ADMINISTRATOR, BOARD OF ADJUSTMENT, COUNTY COMMISSION AND COURTS ON MATTERS OF APPEAL

Section 1201                    Duties of Zoning Administrator, Board of Adjustment, County Commission and Courts on Matters of Appeal

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that such questions shall be presented to the County Commission only on appeal from the decision of the Board of Adjustment and that recourse from the decisions of the County Commission shall be to the courts as provided by law.

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## ARTICLE 13

### AMENDMENTS

#### Section 1301            Regulations

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed, provided that such modification or repeal in each instance be proposed in an ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original ordinance.

The County Commission may at the request of the Planning Commission amend the ordinance or should the County Commission receive a petition requesting an amendment, the Planning Commission shall consider the requested action and make a recommendation thereon to the County Commission within forty-five (45) days of receipt of any such petition. The report of such recommendations shall include approval, disapproval or suggestions and the reasons therefor, and a discussion of the effect of such amendment, supplement, change or modification upon adjacent property and upon the Comprehensive Plan.

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

1. At least ten (10) days before the date of the Planning Commission hearing, the County shall have published, in a legal newspaper, a notice of the time, place, and subject matter of such hearing.
2. The Planning Commission shall hold the Public Hearing, review the proposed amendment(s) and make recommendations to the County Commission.
3. At least ten (10) days before the date of the County Commission hearing, the County shall have published, in a legal newspaper, of the County, a notice of the date, time, place, and subject matter of such hearing.
4. The County Commission shall hold the Public Hearing, review the proposed amendment(s) and by resolution or ordinance deny or pass the recommendations.
5. If the changes are adopted the Planning Commission shall prepare a summary of the changes.
6. Once the summary is prepared the States Attorney shall review the changes and forward the changes to the County Auditor for publishing.
7. The summary of changes must be published once in the in the County's legal newspaper(s). The changes will take effect 20 days after publication

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## ARTICLE 14

### VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES

#### Section 1401            Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint with the Board of Adjustment and investigate and take action thereon as provided by this ordinance.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, they shall notify, in writing by certified mail with return receipt, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The party responsible for the violation shall respond within seven (7) working days from receipt of the letter; otherwise, they will be considered in violation of Section 1403.

#### Section 1403            Penalties for Violations

The owner or agent of a building or premises in or upon which a violation of any provisions of this ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed two hundred dollars (\$200) or imprisonment for not more than thirty (30) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be a separate offense.

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

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this ordinance, appropriate authorities of the county may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

#### Section 1405            Injunction Proceedings to Prevent or Abate Violations

In the event of a violation or a threatened violation of the regulations or restrictions of this ordinance, the County Commission or any member thereof, in addition to other remedies, may institute an appropriate action or proceedings to seek an injunction in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation. It is the duty of the States Attorney to institute such action.

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## ARTICLE 15

### LEGAL STATUS PROVISIONS

#### Section 1501            Separability

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

#### Section 1503            Purpose of Catch Heads

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

#### Section 1505            Repeal of Conflicting Ordinances

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

#### Section 1507            Effective Date

This ordinance shall take effect and be in force from and after its passage and publication according to law.

