

CHAPTER 153: ZONING REGULATIONS

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GENERAL PROVISIONS

153.001: TITLE:

In accordance with SDCL 11-4-1, this Ordinance is created to provide for the establishment of zoning districts within which the proper use of land and natural resources shall be encouraged and regulated; to establish minimum standards for open space, building and population density; to regulate the occupancy and use of dwellings, buildings and structures, including tent and trailer coaches, that may hereafter be erected, altered or moved; to provide for the administration thereof; to provide for a method of amending; to provide for the conflicts with other acts, ordinances or regulations; to provide for the collection of fees for the furtherance of the purpose of this Ordinance to provide for petitions and public hearings; to provide for appeals and for the organization and procedure of the Board of Adjustment; and to provide for penalties for the violation of this Ordinance.

153.002: SHORT TITLE:

These regulations shall be known and may be cited as "THE CITY OF BOX ELDER ZONING ORDINANCE".

153.003: PURPOSE AND JURISDICTION:

- (A) This is an ordinance regulating planning and zoning within the jurisdiction of the city of Box Elder. The Common Council of the city has deemed these regulations and controls to be reasonable and reasonably related to the needs of the residents of Box Elder and, where applicable, the surrounding area. Therefore, to eliminate conflict with these regulations, Ordinances No. 50, 81, 82, 108, 136, 371, 372, 375, 376, 386, 406, 409, 434, 442, 443, 444, 447, 453, 456, 467, 473, and 474, 498, 502, 511, 517, 518 and 478 of the Box Elder Municipal Code are hereby repealed in their entirety.
- (B) Jurisdiction. This chapter shall govern all territory within the statutory jurisdiction of the city for the purpose of promoting the health, safety, and general welfare of the community.

153.004 DEFINITIONS:

For the purpose of this ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural include the singular; the word "person" includes the partnership or corporation as well as an individual; the word "lot" includes the words "plot" or "parcel", the word "building" includes the word "structure", the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied.

The following words, terms and phrases are hereby defined and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them. Words or phrases, which herein are not defined, shall have their common meaning as described in a dictionary.

ABANDONED MOTOR VEHICLE: Any motor vehicle that is left in one location on public property or on private property without the consent of the owner thereof for a continuous period of more than seventy-two hours.

ACCESSORY BUILDING: A building, not over one (1) story in height, detached from a principal building, located on the same lot as the principal building, and customarily incidental and subordinate to the principal building, such as a detached garage or storage shed. An accessory building does not include any dwelling unit(s) or living quarters.

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental, necessary, and subordinate to the principal use of the land or building and located on the same lot with the principal use. An accessory use may only be constructed in conjunction with the issuance of a building permit for, or following the construction of, a primary use. In the case of adjoining lots under common ownership, an accessory use shall only be constructed on the same lot(s) as the primary use.

ACCIDENT POTENTIAL ZONE (APZ): Two areas (APZ 1 & APZ 2) near the end of a runway that have been found to have significant statistical probability for aircraft accidents such that land use restrictions are appropriate to prevent concentrations of people and limit resident density.

ADULT ORIENTED BUSINESS (AOB): An establishment as described and regulated by SDCL Chapter 11-12.

AGENCY: The city council and any officer, employee, department, division, or other agency of the City of Box Elder, including boards and commissions, but excludes the municipal court.

AGRICULTURE: The production, storage, keeping, harvesting, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages (hay) and sod crops; grains and seed crops; livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; 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 aquaculture, chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ): As described in the Air installation compatible use zone (AICUZ) study for Ellsworth Air Force Base, South Dakota of December, 2008, AICUZ is intended to identify and restrict land uses in locations that might obstruct or otherwise be hazardous to airfield operations and identify land areas which are exposed to health, safety, or welfare hazards due to airfield operations.

AIRSPACE SURFACES: A collection of geometric planes defined by the FAA that were created primarily to prevent existing or proposed manmade objects; objects of natural growth, or terrain from extending upward into navigable airspace. Examples of airspace surface are Primary Surface, Approach/Departure Clearance Surfaces, Inner and Outer Horizontal Surfaces, Conical Surface, and Transitional Surfaces.

ALLEY: A service roadway providing only a secondary means of access to abutting

property and not intended for general traffic circulation.

ALLOWED GATHERING DENSITY: An Overlay District may impose a limit on the number of people allowed to gather on a parcel of land, in a structure, or at an event at any one time.

ALTERATION: Any change or rearrangement in the supporting members of an existing building, such as beams, bearing walls, columns, girders, load-bearing interior partitions, or trusses, as well as any enlargement to a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

AMUSEMENT AND RECREATION BUSINESS: Any business whose primary function is entertainment, such as theaters, billiard halls, amusement rides, shows, site seeing tours, or any other entertainment or amusement, which may be authorized by the Common Council.

AMEND OR AMENDMENT: Any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape, boundary or area of a district or any repeal, abolition, change or addition to the Zoning Map.

ANTENNA: Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) or microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes and omnidirectional antennas, such as whips.

ANTIQUE VEHICLE: A vehicle registered with and licensed by the South Dakota State Division of Motor Vehicles of the Department of Revenue or the department of motor vehicles of any other state as an antique vehicle.

APARTMENT HOUSE: see Dwelling, Multiple Family

APPROACH CLEARANCE SURFACE: A portion of the airspace, defined by the FAA, as the lowest altitude for an aircraft to use to safely land on a runway. This surface (altitude) increases at a constant rate as it goes outward and upward from the runway surface.

APPROACH/DEPARTURE SURFACE: See Approach Clearance Surface.

APPROVED: Refers to the approval of the City Council or their authorized agent.

ARCHITECTURAL PROJECTION: Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, including without limitation a roof overhang, mansard, unenclosed exterior balcony, marquee, canopy, awning, pilaster, and fascia, but not including a sign.

AREA, BUILDING: The total areas taken on horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, decks, etc.

ASSISTED LIVING FACILITY: A facility, which has individual dwelling or living units where care may or may not be provided by on duty medical personnel, this facility can also be capable of serving one or more meals a day to the occupants of the structure at one and the same time.

AUTHORIZED EMERGENCY VEHICLE: Every vehicle equipped with audible or visual signals meeting the requirements of South Dakota State Law and the City of Box Elder, as amended, and operated by law enforcement personnel, city fire department personnel, ambulance personnel and every other vehicle defined as an authorized emergency vehicle by state law.

AUTHORIZED SERVICE VEHICLE: Such highway or traffic maintenance vehicles as are publicly owned and operated on a highway by or for a governmental agency, the function of which requires the use of service vehicle warning lights as prescribed by state law, and such

other vehicles having a public service function, including without limitation, public utility vehicles and tow trucks, as determined by the state department of highways. Some vehicles may be designated as both an authorized emergency vehicle and an authorized service vehicle.

AUTOMOBILE DEALER: A person or business, licensed by the State of South Dakota, who is engaged in the practice of automobile sales without a premise used principally for automobile sales. An **AUTOMOBILE DEALER** may display no more than two automobiles, trucks, trailers, tractors, motorcycles, snowmobiles, graders, other motorized vehicles, or any combination of these vehicles for display, sale, rental, lease, or other purpose in a Commercial or Residential District as an accessory use.

AUTOMOBILE REPAIR SERVICE: An establishment primarily engaged in furnishing general automotive repair, rebuilding or reconditioning engines, body and fender work, vehicle and trailer painting, or upholstering services.

AUTOMOBILE SALES: The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles, light trucks, recreational vehicles, trailers, or vans, and including any vehicle preparation, warranty, or repair work conducted as an accessory use.

AUTOMOBILE SERVICE STATION: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, servicing and repair of automobiles, and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

AUTOMOBILE STORAGE GARAGE, PRIVATE: Accessory building, including a barn used for automobile storage, or a portion of a main building or building attached thereto, designed, arranged or used for housing private motor vehicles, including farm machinery and vehicles. A private automobile garage shall not be used for the commercial storage of dismantled or wrecked vehicles or junk.

AUTOMOBILE PARKING LOT, PUBLIC: Parcel of land, lot or portion thereof owned and/or operated by a governmental or official public agency for off-street motor vehicle parking, but excluding the storage of dismantled or wrecked vehicles, parts thereof or junk.

AUTOMOBILE REPAIR SERVICE: An establishment primarily engaged in furnishing general automotive repair, rebuilding or reconditioning engines, body and fender work, vehicle and trailer painting, or upholstering services.

AUTOMOBILE SALES LOT: Lot arranged, designed or used for storage and display for sale of any motor vehicle or any type of mobile home or farm implement, trailer, excluding the storage of dismantled or wrecked vehicles, parts thereof or junk.

AUTOMOBILE WRECKING/JUNK YARD: The dismantling, storage, sale, crushing or dumping or use motor vehicles, trailers or parts thereof.

AWNING: An architectural projection roofed with flexible material, including without limitation fabric, supported entirely from an exterior wall of a building, and that may be retracted, folded, or collapsed against the face of the supporting building.

BASEMENT: Any floor level having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height that is greater than five feet. Also known as a cellar.

BATHROOM: A room with a tight fitting door containing a water closet and a lavatory, said room may also contain a shower, or bathtub.

BAY WINDOW: A window projecting from the wall of a building containing windows on all walls of the projection. The projecting bay is floor to ceiling in height, is not more than one-half the width of the room from which it projects and is not less than fifty percent glass.

BED AND BREAKFAST: An owner-occupied, single-family residence offering overnight lodging and a morning meal for compensation, with not more than four guest sleeping rooms for not more than eight transient persons. A bed and breakfast in a residential zone shall be regulated as a home occupation.

BICYCLE: A vehicle propelled solely by human power through a chain, belt, or gears and that has at least one wheel more than fourteen inches in diameter.

BICYCLE OR WALKING PATH: A separate path that has been designated for use by non-motorized bicycles or pedestrians by traffic control device or other sign and that is separated from the roadway for other vehicular traffic by open space or a barrier.

BOARD: The Board of Adjustment.

BOARD OF ADJUSTMENTS: Shall otherwise be known as the Planning Commission for the City of Box Elder.

BOARDINGHOUSE. An owner-occupied residence, as distinct from a hotel or motel, where, for compensation and by pre-arrangement for definite periods of time, meals and/or lodging are provided for three or more persons, but not more than eight persons, not related by blood or law, but not open to transient guests. This definition shall include residence clubs, fraternities, sororities, assisted living facilities, and community shelters.

BRUSH: Woody shrubs not part of a planned and maintained landscape of either a highly structured manicured type or a natural appearance.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, family, animal, process, equipment, goods, or materials of any kind.

BUILDING, ACCESSORY. See **ACCESSORY BUILDING.**

BUILDING CODE: That code in effect adopted by the State of South Dakota and the City of Box Elder.

BUILDING COVERAGE: The ratio of the horizontal area, measured at grade from the exterior surface of the exterior walls of the ground floor, of all principal and accessory buildings on a lot to the total lot area.

BUILDING ENVELOPE: That area on any lot on which a structure can be erected consistent with existing setback requirements and is defined by the setback lines applicable to that lot. But no such line shall run closer than five feet from any property boundary, and to the extent required to avoid running closer than five feet to any property boundary, this line may run less than eight feet from the exterior wall of any protected structure.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade along the front building line to the eave height of the of the building, not including chimneys or other similar structures.

BUILDING INSPECTOR: The individual authorized by the Building Official his designee and the City to conduct inspections and issue permits.

BUILDING AND/OR SETBACK LINE: The setback line beyond which the foundation wall and/or any enclosed porch, vestibule or other enclosed portion of a building shall not project to a property line, except as provided in this ordinance.

BUILDING OFFICIAL: Administrator of the building codes adopted by the City of Box Elder.

BUILDING PERMIT: Written permission issued by a building official for the construction, repair, alteration, or addition to a building.

BUILDING, MAIN AND/OR PRINCIPAL: Building which is considered the principal use of the lot on which it is situated. In any residential district, a dwelling shall be deemed a main building on which it is located.

BUILDING SITE: A single parcel of land under one ownership occupied or intended to be occupied by a building or structure.

BULK STORAGE: Product stored in large quantities in a tank, pipeline or tank vehicle.

BUSINESS: Means any profession, trade or occupation and all and every kind of calling, whether or not carried on for profit, except those organizations exempt from the federal income tax pursuant to section 501(c)(3) of the United States Internal Revenue Code as amended or renumbered; provided.

BUSINESS, PLACE OF: Any location, building or portion thereof or premises in which or from which a business is carried on. The term includes but is not limited to an office, warehouse, yard, location where books and records are kept, the location from which business is solicited.

BUSINESS, PROPER LOCATION: No registration or license shall be issued unless and until the applicant for such license provides the city clerk with the address of the proposed location from which business will be conducted. The clerk shall cause inspection of the facilities, and buildings at the location listed shall meet all applicable building and fire codes and zoning restrictions currently in force within the city.

BUSINESS, SERVICE: Any activities conducted for gain which render service primarily to other commercial and industrial enterprises, or which service and repair appliances and machines used in the home or business.

BUSINESS, SERVICE TYPE, HEAVY: A business, which may sell goods at retail, having a substantial portion of it's volume devoted to the repair of automotive or other motor driven equipment, machinery or parts, including the fabrication thereof, but not for wholesale trade; and businesses dealing in building materials, woodworking, dry cleaning and the like.

CAMPGROUND: A parcel on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes. May also be known as an RV Park.

CAMPER: See Recreational Vehicle.

CAMPING UNIT: Any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

CAMPSITE: Any plot of ground within a campground intended for exclusive occupancy by a camping unit or units under the control of a camper.

CARE HOME: A rest and/or nursing home, convalescent home or boarding home for the 24 hour care of children or the aged, but excluding the facilities for the care of the "feeble-minded" or mental patients, epileptics, alcoholics or drug addicts.

CARPORT: A roofed, and usually detached, structure (not a building except for setback purposes and, therefore, exempt from the requirement to obtain a building permit) with no more than two walls providing space for the parking of no more than two motor vehicles or trailers.

CENTERLINE: A line extended through the midpoint of each end of a runway.

CERTIFICATE OF OCCUPANCY: A document issued by a building official allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all applicable municipal codes and ordinances.

CHARACTER: Special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its interest and/or individuality.

CHARITABLE AND PHILANTHROPIC INSTITUTIONS: A private, non-profit body, association or society not organized for the business of conducting a business, no part of its' net earnings of which inures to the benefit of any individual, and which provides volunteer aid or relief or religious, social, physical, recreational and/or benevolent services.

CHATTEL: Any tangible, movable, personal property whatsoever, including, but not limited to: building materials, household furniture, appliances or motor vehicle parts, but not including duly licensed operable vehicles or recreational vehicles, boats, camper shells or off-the-road vehicles mounted thereon.

CHURCH: A building or structure, or groups of buildings or structures, together with its accessory buildings and uses where persons regularly assemble for religious worship. Also known as a house of worship, mosque, synagogue, or temple.

CITY: Means the City of Box Elder or the area within the territorial City limits of the City of Box Elder and such territory outside of this City over which the City has jurisdiction or control by virtue of any constitutional or charter provision, or any law.

CITY CLERK OR CITY TREASURE: The director of finance (*Finance Officer*) and record.

CLERGY: Persons who conduct religious services and undertake the duties prescribed by religious orders or denominations.

CLERGY RESIDENCE: The home of a member of the clergy that may be located on the same parcel as the church as a customary accessory use.

CLEANABLE: Having a smooth, hard surface that is free from unsealed breaks and impervious to the amount of water that would be used in cleaning.

CLINIC: An establishment where patients are admitted for examination, rehabilitation, and/or treatment on an outpatient basis by chiropractors, dentists, optometrists, physicians, psychologists, social workers, or other medical personnel and where such examination and treatment generally require a stay of less than 24 hours. Also known as an ambulatory health care facility.

CLUB: A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

CLUBHOUSE: A building, or portion thereof, used by a club.

COLLOCATION: The act of siting telecommunications facilities in the same location on the same support structure as other telecommunications facilities. **COLLOCATION** also means locating telecommunications facilities on an existing structure, such as a building, water reservoir, or tower, without the need to construct a new support structure.

COMMERCIAL USE.: Any activity involving the sale of goods or services carried out for profit.

COMMISSION: The Planning and Zoning Commission of the City of Box Elder.

COMMUNITY FACILITY: A building or structure owned and operated by a governmental agency to provide a governmental service to the public.

COMPATIBLE LAND USE: A use of land and/or building(s) that, in terms of development intensity, building coverage, design, bulk and occupancy, traffic generation,

parking requirements, access and circulation, site improvements, and public facilities and service demands, is consistent with and similar to neighboring uses and does not adversely affect the quality of life of persons in surrounding or nearby buildings.

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO): A parcel of land, with or without buildings, used or intended to be used for the confined feeding, breeding, raising, or holding of animals in excess of 50 animal units and specifically designed to store and accumulate animal manure and other waste products in holding areas, feedlots, yards, or lagoons.

CONDITIONAL USE: A use permitted in a particular zoning district when it is shown that such use in a specified location will comply with the intent of the district; and all the conditions and standards for the location or operation of the use as specified in the ordinance and authorized by the City. Conditional uses are uses authorized for the landowner by a permit and are appropriate in the zoning District only when all permit conditions are met.

CONDITIONAL USES: are uses authorized for the landowner by a permit and are appropriate in the zoning district only when all permit conditions are met.

CONDOMINIUM: A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all of the owners on a proportional, undivided basis.

CONGREGATE RESIDENCES: Apartments or dwellings with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services, laundry, and other support services appropriate for the residents and designed to provide a relatively independent lifestyle.

CONSERVATION AREA: Environmentally sensitive areas with characteristics such as steep slopes, wetlands, floodplains, high water tables, forest areas, endangered species habitat, dunes, or areas of significant biological productivity or uniqueness that have been designated by the Council for protection from any activity that would significantly alter their ecological integrity, balance, or character.

CONDUCT: Carry on or engage in, own, maintain, manage or operate any business, trade, art, profession, calling, employment, occupation or any commercial, industrial or professional pursuit, vocation or enterprise in this city.

CONSTRUCTION PROJECT: The erection, installation, alteration, repair, or remodeling of a building or structure upon real estate or any other activity for which a building permit is required under this code or an ordinance of the city.

COUNCIL: The Common Council of the City of Box Elder.

CONTRACTOR'S SHOP AND/OR STORAGE YARD: A lot, or portion thereof, and/or building(s) used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor.

COURT: Any open space, unobstructed from the ground to the sky, this is bounded on two or more sides by the walls of a building that is on the same lot.

COVERAGE, LOT: The lot area covered by all structures located therein, including the area covered by roofs.

COW (CARRIER ON WHEELS OR CELL ON WHEELS): A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle- or trailer-mounted and contains a telescoping boom as the antenna support structure.

CUP: Conditional Use Permit.

DAY CARE CENTER: An establishment providing for the care, supervision, and

protection of children as a supplement to regular parental care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for part of a day.

DECK: An above-grade, roofless platform, either detached (freestanding) or attached to a building, that is supported by pillars or posts.

DEDICATED PUBLIC RIGHT-OF-WAY: A parcel of land that is conveyed to the public by the notation “*dedicated public right-of-way*” on a recorded plat for use as a public right-of-way.

DEDICATION: The transfer of property by the owner to another party.

DENSITY: The number of families, individuals, dwelling units, households, or housing structures per unit of land. The most common standard is dwelling units per acre.

DESIGN CAPACITY: The maximum number of persons permitted by the codes, which can be accommodated at any one time with a reasonable degree of comfort, safety and convenience.

DILAPIDATION: Deterioration of structures or buildings to the point of being unsafe or unfit for human habitation or use.

DISTRICT: A part, section, zone, or geographic area within the city within which the regulations and provisions governing the development and use of buildings or land are uniform for the class of use permitted therein. Also known as a zoning district.

DORMITORY: A building or portion thereof used for sleeping purpose, in connection with a school; college or other institution.

DRIVE-IN USE: An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

DUMP: A lot, parcel or tract of land, the premises of which are used primarily for disposal; by abandonment, discarding, dumping, reduction, burial, incineration or any other means and for whatever purpose; of garbage, sewage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof, offal or dead animals.

DUPLEX: A Building containing only two (2) dwelling units, arranged one above the other or side by side on a single lot located on a single lot containing two attached, one-family dwelling units totally separated from each other by one or more vertical or horizontal, unpierced, common, fire-resistant walls extending from basement to roof or floors.

DWELLING: A structure or portion thereof that is used exclusively for human habitation.

DWELLING, ATTACHED: A building or portion thereof having two or more single family dwellings attached to each other.

DWELLING, DETACHED: Building arranged or designed as a dwelling and entirely separated from any other building or structure by space on all sides.

DWELLING, MULTI-FAMILY: A building located on a single lot containing three or more dwelling units, including units that may be located one over another, and can be rented for a period of not less than thirty (30) days. Also known as an apartment house.

DWELLING, SEMI-DETACHED: One of two buildings, arranged or designed as dwellings, located on abutting individually owned lots, separated from each other by a one hour separation wall extending from the basement floor and separated from any other building or structure by space on all sides.

DWELLING, SINGLE-FAMILY: A building located on a single lot containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by

yards.

DWELLING, TOWN HOUSE: A one-family dwelling in a row of at least two such units, with each unit located on a separate lot, in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical, un-pierced, common, fire-resistant walls. Also known as single-family attached dwellings or zero lot line homes.

DWELLING UNIT: Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the building code, for not more than one family, or congregate residence for ten (10) or less unrelated persons.

EAFB: Ellsworth Air Force Base

EASEMENT: A grant of one (1) or more of the property rights by the property owner to and/or for use by the public or another person.

EAVE: The projecting lower edges of a roof overhanging the wall of a building.

ENCROACHMENT: In other than described in AICUZ, any obstruction or illegal or unauthorized intrusion in a delineated floodplain, right-of-way, or on adjacent land.

FAA: Federal Aviation Administration.

FACTORY-BUILT HOMES: Structures built off-site and designed for long-term, single-family residential use. For the purpose of these regulations, factory-built homes consist of modular homes, which are built to existing local and state adopted codes.

FAMILY: An individual or two (2) or more persons related by blood or marriage or a group of not more than ten (10) individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit. For purposes of this chapter, **FAMILY** does not include any society, club, fraternity, sorority, association, lodge, federation, or like organizations; or any group of individuals who are in a group living arrangement as a result of criminal offenses.

A) In determining whether individuals unrelated by blood are living together as the functional equivalent of a traditional family, the following criteria must be present:

- (1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;
- (2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;
- (3) The group shares expenses for food, rent or ownership costs, utilities and other household expenses;
- (4) The group is permanent and stable. Evidence of such permanency and stability may include:
 - a. The presence of minor dependent children regularly residing in the household who are enrolled in local schools;
 - b. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes;
 - c. Members of the household are employed in the area;
 - d. The household has been living together as a unit for a year or more

- whether in the current dwelling unit or other dwelling units;
- e. There is common ownership of furniture and appliances among the members of the household; and
 - f. The group is not transient or temporary in nature;
- (5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

FARM: A parcel of land used for agricultural activities.

FEASIBLE: The ability to construct an improvement on a site from the standpoint of physical capabilities. It does not include economic desirability.

FEMA: Federal Emergency Management Agency. The federal agency under which the National Flood Insurance Program (NFIP) is administered. In March 2003, FEMA became part of the newly created U.S. Department of Homeland Security.

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

FILLING STATION: A building or lot or part thereof supplying, and selling gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks.

FIRE ARM: Any handgun, revolver, pistol, rifle, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges.

FIRM: Flood Insurance Rate Map developed by FEMA.

FLOOR AREA RATIO: The numerical value obtained by dividing the gross floor area of a building or buildings located on a lot or parcel of land by the total area of the lot or parcel of land.

FOOD: Any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

FRATERNITY OR SORORITY HOUSE: A building housing the members of a fraternity or sorority group living together under a cooperative arrangement as distinct from boarding or lodging house.

FRONTAGE: All the property on one side of a street between two intersection streets (crossing or terminating) measured along the line of the street, or if the street dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

FRONTAGE, BUILDING: The horizontal, linear dimension of that side of a building that abuts a street, a parking area, a mall, or other circulation area open to the general public and that has either the primary window display of the enterprise or the primary public entrance to the building; in industrial districts, the building side with the primary entrance open to employees is the building frontage; where more than one use occupies a building, each such use having a primary window display or a primary public entrance for its exclusive use is considered to have its own building frontage, which is the front width of the portion of the building frontage occupied by that use.

FRONTAGE, STREET: The linear frontage of a lot or parcel abutting a private or public street that provides principal access to or visibility of the premises.

GARAGE, PRIVATE: Any garage building or part of a main building used for the storage of vehicles of those persons owning the property or for the storage of those persons occupying the property as their residence. Said building shall not be utilized for the purpose of leasing or renting space for storage of vehicles of those other than the owners or the occupants of the primary use of the property.

GARAGE, PUBLIC: Any garage not described as a private garage, available to the public, which is used for the storage motor vehicles.

GARAGE, REPAIR: A building, which contains facilities for the care, servicing and/or repair of motor vehicles.

GARBAGE: Animal or vegetable waste resulting from the preparation, cooking, and serving of food or the storage or sale of produce.

GARBAGE CONTAINER: A metal or other non-absorbent container equipped with a tightly fitting metal or non-absorbent lid or sealed plastic garbage bags, but does not include incinerators or ash pits.

GENERAL CIRCULATION: Delivered to a substantial number of residences in the city and also otherwise made available for purchase or distribution.

GRADE, ESTABLISHED: The elevation of the centerline of highways, streets, and roads as officially established by the City Council, its authorized agent or any public agency having jurisdiction over such highway, street or road.

GRADE, FINISHED: The completed surfaces of lawns, walks and roads brought to grades as shown in official plans or designs thereto. When walls are parallel to and within five feet of a sidewalk, "grade" means the sidewalk level.

GRADING PERMIT: Written permission issued by a building official for the excavation, grading, or fill of earth or other material. The grading permit is intended to regulate development of agricultural, residential, public, commercial, and industrial properties; grading of land within or adjacent to FEMA-designated flood hazard areas; and construction of subdivision roads.

GUEST: An occupant of a rental unit of a lodging establishment

GUEST ROOM: A room occupied or intended for sleeping, arranged or designed for occupancy, by one (1) or more guests.

HEREAFTER: Any time after the effective date of this code.

HERETOFORE: Any time previous to the effective date of this code.

HISTORICAL MONUMENTS AND/OR STRUCTURES: Any antique structure or building existing contemporaneously with and commonly associated with an outstanding event or period of history and any structure or building which the relics and/or mementos of such event or period are housed and preserved.

HOME OCCUPATION: Any activity carried out for gain by a resident and conducted in the resident's dwelling unit.

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, training facilities, medical offices, and staff residences.

HOTEL: A facility offering transient short-term (not more than 28 days) guest lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

HOTEL ROOM, MOTEL ROOM, OR OTHER ACCOMMODATION: Any room or other accommodation in any hotel, motel, guest house, or any such similar place to any person who for a consideration uses, possesses, or has the right to use or possess such room or other accommodation for a total continuous duration of less than twenty-eight (28) days.

IMPROVEMENT: Changes and additions to land necessary to support the development or use of real property, such as, but not limited to, boulevards, bridges, culverts, curbs and gutters, electrical transmission and service lines, natural gas lines, potable water mains and service lines, sanitary or storm sewers, sidewalks, street grading and surfacing, street lights, survey monuments, telephone lines, and other similar items.

INCIDENTAL: Subordinate and minor in significance and bearing a reasonable relationship to the primary use.

INTERSECTION: The area embraced within the prolongation or connection of the lateral curb lines of two streets that join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict, whether or not one such street crosses the other, but the term does not include the junction of any alley with a street. If a street includes two roadways thirty feet or more apart, every crossing of each roadway of such divided street by an intersecting street is a separate intersection. If such intersecting street also includes two roadways thirty feet or more apart, every crossing of such streets is a separate intersection. The farthest applicable points shall be used when measuring.

JUNK: Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale, or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or for other use or disposition.

JUNKYARD/SALVAGE YARD: Any land or building commercially used for the abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage or salvaging motor or other vehicles not in running condition, machinery or parts thereof.

KENNEL: An establishment in which four (4) or more dogs, each more than six months of age, are housed, kept, or boarded.

LANDING: A platform not covered by a roof, awning, or canopy that is no more than eight feet in width and extends no more than six feet into the required setback. The means of access to the landing, whether by steps or ramp, are exempt from the six-foot restriction in this definition. Landings and their means of access are not to be included in the calculation of lot coverage.

LAUNDROMAT: An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

LAW: Any regulation, ordinance, provision of this code, or charter provision of the city; any rule, statute, or constitutional provision of the state which is binding; any regulation, statute, or constitutional provision of the United States which is binding on the state or its cities.

LOADING SPACE: A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of a truck.

LICENSE, BUSINESS: The written authority of the City issued by its duly authorized agent, employee or officer, conferring permission on some person to pursue and exercise a trade, occupation or business for a definite period of time within the City of Box Elder, under the conditions prescribed by the Ordinances of the City of Box Elder.

LIFE CARE RETIREMENT CENTER: A residential facility containing dwellings designed for and principally occupied by senior citizens or the disabled in a planned retirement community which includes a residential complex, an activity or community center, and a medical or nursing facility which is licensed by the state of South Dakota as an Intermediate Care Facility or a Skilled Nursing Center.

LOCAL IMPROVEMENT: A public improvement provided to a specific area benefiting that area and usually paid for by special assessment on the benefiting property owners. A parcel of land held under unified ownership in fee or co-tenancy or under legal control tantamount to such ownership, considered as a unit, used or proposed to be used, for a certain use or uses or occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this ordinance, having at least the minimum areas required by this ordinance for a lot in the district in which the same is situated and having its principal frontage on a public highway, road, street or private road or right-of-way deemed adequate by the public agency having jurisdiction.

LOT AREA: The total area within the lot lines of a lot, excluding any street rights-of-way.

LOT, CORNER: A lot of which at least two (2) adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

LOT DEPTH: The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

LOT, DOUBLE FRONTAGE: A lot which runs through a block from street to street and which has two non-intersecting sides abutting on two or more streets.

LOT, COVERAGE, PERCENTAGE OF: The permissible percentage of "lot area" which may be covered by buildings, including covered porches and accessory buildings.

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

LOT, FRONT OF: The line or lines of an interior or through lot, which abuts a street; in a corner lot, the shortest line that abuts a street. When the lines are of equal length, the lot shall be considered to front on that street having the longest block frontage.

LOT, IMPROVED: A lot with buildings or structures.

LOT, INTERIOR: A lot other than a corner lot. An **INTERIOR LOT** shall be deemed to have one front yard, two side yards, and one rear yard.

LOT LINE. A line of record bounding a lot that divides one lot from another lot or from a public 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. In those cases where a lot has more than one front lot line, side lot lines shall be designated at a ratio of one side lot line per front lot line, and the remaining undesignated lot lines shall be designated as rear lot lines.

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

LOT, MANUFACTURED HOME: A designated area of land within a manufactured home park established by an approved manufactured home park permit to be separately leased or rented for the placement of a manufactured home, recreational vehicle, or travel trailer to be used as a residence.

LOT, NET AREA OF: The total horizontal area included in the rear, side and front lot or proposed street lines. No alley, street, public way, private right-of-way, public land or any area proposed for the foregoing purposes shall be included in determining the net area of the lot.

LOT OF RECORD: Land designated as separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed filed among the land records in the office of the Registrar of Deeds for Meade and Pennington County, South Dakota.

LOT WIDTH: The horizontal distance between the side lines of a lot measured at right

angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

LUMBERYARD: An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

MANUFACTURED HOME: For the purpose of City Ordinances, particularly Chapter 153, a manufactured home placed on a parcel of land within the City of Box Elder not be more than twenty (20) years of age, no less than Sixteen (16 feet in width and constructed almost entirely in a factory with a peaked, non-reflective roof. The house is placed on a steel chassis and transported to the building site. The wheels can be removed but the chassis stays in place. The structure is intended to be a single-family dwelling, designed to be a permanent residence, that meets or exceeds the Federal Manufacture Home Construction and Safety Act (42 U.S. C. Sec. 5401, 24 CFR Part 3280), commonly known as HUD (U.S. Department of Housing and Urban Development) Code.

MANUFACTURED HOME LOT/SPACE: A plot of ground no less than 5,000 square feet in area, within a manufactured/mobile home park designed for the accommodation of one manufactured home and its accessory structures.

MANUFACTURED/MOBILE HOME PARK (MHP): May also be known as a MOBILE/MANUFACTURED HOME COURT: Is any area, tract, site or plot of land established before January 1, 2016, and designed, used, or intended to provide a location or accommodation for one or more manufacture homes. Of which has three (3) or more lots or parcels of land which are under common ownership and which manufactured homes are to be placed or located for year round occupancy. This is despite the lot or tract or any part thereof is held or operated for profit. The term excludes RV's (Recreational Vehicle), automobile or mobile homes sales lots on which mobile homes are parked only for inspection and sale.

MANUFACTURED HOME SALES: An establishment where manufactured homes and/or factory-built homes are displayed for retail sale. This definition excludes the construction or occupancy of factory-built homes.

MANUFACTURED HOME SKIRTING: A solid boarder constructed around the perimeter of a mobile home from the bottom of the mobile home to the finished grade.

MANUFACTURED HOME SUBDIVISION: Any area, tract or site or plot of land subdivided for the purposes of individual ownership of separate lots, on which any number of lots or mobile homes may be provided for including accessory uses.

MANUFACTURING: The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, metals, resins, or liquors.

MARQUEE: Any hood, canopy, awning, or permanent construction that projects from a wall of a building, usually above an entrance.

MINIMUM FLOOR ELEVATION: The lowest elevation permissible for the construction or other placement of any floor, including a basement floor.

MIXED USE: A building, structure or premises occupied by or used by two (2) or more principal types of use, any of which is permitted in a district independent of other uses.

MOBILE HOME: A factory-built, single-family dwelling, designed to be a permanent residence, and built prior to enactment of the 1976 Federal Manufactured Home Construction and Safety Standards Act (42 U.S.C. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) Code. Mobile homes typically are not placed on a permanent foundation or basement and consist of one or two transportable sections that have a permanently attached towing hitch and chassis.

MODULAR HOME: Any conventionally manufactured dwelling unit meeting or exceeding all local codes requirements; that is constructed in two (2) or more main sections and transported to and permanently assembled on a foundation at the site. The Chassis or frame for which the sections are transported, shall not be in part or whole required for the structural integrity of the building. Said frame, trailer or chassis shall be removed prior to placement of the structure on a permanent foundation.

MONOPOLE: A single, freestanding pole-type structure supporting one or more antenna.

MOTEL, MOTOR COURT, MOTOR HOTEL, MOTOR LODGE: A building in which lodging and boarding are offered to the public for compensation, and which has separate entrance to the exterior from each unit with at least one parking space for each unit.

MOTOR VEHICLE: All land vehicles propelled or drawn by other than muscular power.

MULTI-USE BUILDING: A building containing two or more distinct uses.

NEIGHBORHOOD SHOPPING CENTER: A building containing three (3) or more tenant spaces of retail, personal service or restaurant use sharing off-street parking in the open between the building and the street. Neighborhood shopping centers do not exceed sixty thousand (60,000) square feet of gross floor area. Multi-tenant retail, personal service or restaurant use buildings or building complexes without parking, with enclosed parking, or with parking screened from the street by the building, shall not be a neighborhood shopping center.

NEWSPAPER: A publication, having been in existence for at least six months, regularly printed and distributed no less than once a week, that contains news, opinions, advertisements, and other items of general interest.

NONCONFORMING LOT. A lot, the area, dimensions, or location of which was lawful prior to the adoption of this chapter but that fails by reason of such adoption to conform to the present requirements of the zoning district.

NONCONFORMING STRUCTURE. A structure or building, the size, dimensions, or location of which was lawful prior to the adoption of this chapter but that fails by reasons of such adoption to conform to the present requirements of the zoning district.

NONCONFORMING USE. A use or activity that was lawful prior to the adoption of this chapter but that fails by reason of such adoption to conform to the present requirements of the zoning district.

NOTICE OR LEGAL NOTICE: Any requirement for informing a person or persons, a segment of the public, or the public generally. A notice required to be published may be published in any newspaper of general circulation unless otherwise required by the charter, this code, or an ordinance.

NOXIOUS MATTER/HAZARDOUS MATERIAL: Material (in gaseous, liquid, solid, particulate or any other form) which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the social, economic or psychological well-being of individuals.

NURSING HOME: A residential health care facility which provides institutional lodging, nursing care, personal care and supervision to aged, chronically ill, physically infirm, or convalescent patients who are not related to the owner or administrator of the facility.

NURSERY, RETAIL: The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers, as well as the sale of garden tools and similar accessory and ancillary products, to the general public.

NURSERY, WHOLESALE. The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to landscapers, developers, builders, and retail nurseries.

OBSTRUCTION: In other than described in AICUZ, any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow or water might carry the same downstream to the damage of life or property.

OCCUPANT: Any person living in, sleeping, possessing, or otherwise using any land, building, or part thereof.

OFFICE: A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

OFF-SITE IMPROVEMENT: An improvement required to be made off-site as a result of an application for development and including, but not limited to, road widening and upgrading, stormwater facilities, and traffic improvements.

OPEN SPACE: Any parcel or area of land or water, essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests.

OPEN SPACE, USABLE: Open space within a lot, tract, parcel, or development site excluding areas devoted to roadways and parking. At least one-half of all areas to be designated as usable.

OUTBUILDING: A separate accessory building or structure not physically connected to or as large as the principal building.

OUTDOOR STORAGE: The keeping, in an area outside of a building, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

OVERHANG: The part of a roof or wall that extends beyond the facade of a lower wall.

OVERLAY ZONE: A zoning district that encompasses one or more underlying zones and that imposes additional requirements beyond those required for the underlying zone(s).

OWNER: A person as defined by this code, who, alone, jointly or severally with others, or in a representative capacity (including, without limitation, an authorized agent, executor, or trustee) has legal or equitable title to any property in question.

PARAPET: The extension of the main walls of a building above the roof level.

PARKING AREA, PRIVATE: A parking area for the exclusive use of the owner(s) or occupant(s) of the lot on which the parking area is located.

PARKING AREA, PUBLIC: A parking area other than on a street available to the public, with or without payment of a fee.

PARKING FACILITY: An approved, hard-surfaced open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily parked for a fee or allowed without a fee by a public entity.

PARKING LANE: A lane designed to provide on-street parking.

PARKING LOT: An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and giving access, and for entrance and exit, all laid out in a way to be usable for the parking of more than six (6) motor vehicles or trailers.

PARKING SPACE: An off-street, surfaced area of not less than 200 square feet (ten feet) wide by 20 feet long) for the parking of a motor vehicle within a public or private parking area. Exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having access to a street or alley.

PARK: A plot of land that is landscaped, maintained as open space, serves a neighborhood, and is used as an informal gathering place for relaxation and play. Permitted improvements include walking paths and sitting areas with bench and chairs only.

PARTY WALL: A common wall shared by two attached structures, buildings, or dwelling units.

PE: Professional Engineer Licensed to perform work in South Dakota.

PERMITTED USE: Any use allowed in a zoning district and subject to the restriction applicable to that zoning district.

PERSON: A natural person, corporation, firm, partnership, association, organization, and any other group acting as a unit as well as individuals. It also includes an executor, administrator, trustee, receiver, or other representative appointed according to law. Whenever the word "person" is used in any provision of this code prescribing a penalty or fine as to partnership or associations, the word includes the partners or members thereof, and as to corporations, includes the officers, agents, or members thereof who are responsible for any violation of such section.

PERSONAL HEALTH SERVICE: Establishments primarily engaged in providing outpatient health services such as audiology, chiropractic, dental, medical, ophthalmology, or optometry.

PERSONAL SERVICES: Establishments primarily engaged in providing services involving the care of a person or their apparel such as barber shops, beauty shops, clothing rental shops, coin operated laundries, dress makers, dry cleaners, garment services, health clubs, photographic and art studios, shoe repairs, tailors, and tanning salons.

PHARMACY: An establishment where drugs and medicines are prepared and dispensed.

PLANNING DIRECTOR: The authority charged with the administration and enforcement of this chapter, as designated by the Council.

PLAT: A map, generally of a subdivision, showing the location, boundaries, and ownership changes of lot divisions. To plat means to subdivide.

PLOT PLAN: A diagram of a lot, as seen from above, showing the outline of all structures on the lot and indicating the distance of the structures from the borders of the lot.

PORCH: A roofed, open area, which may be screened, attached to, or part of a building, and with direct access to or from said building.

PREMISES: A lot, parcel, plot, or tract of land together with the buildings and structures thereon.

PRINCIPAL ENTRANCE: The place of ingress and egress used most frequently by the public.

PRINCIPAL USE: The specific primary purpose for which land and/or a building is utilized.

PRIMARY, PRIMARILY, PRINCIPAL, or PRINCIPALLY: More than half, if used in a quantifiable context, and first in rank, importance, or value, if used in a context where ranking is possible but quantification is not.

PRIMARY SURFACE: This surface defines the limits of the obstruction clearance requirements in the immediate vicinity of the landing areas which consists of the runway, runway shoulders, and lateral safety zones and extends two-hundred feet (200') beyond the runway end.

PRIVATE CLUB OR LODGE: A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, education,

recreational, or cultural enrichment of its members and not primarily for profit and whose members pay dues and meet certain prescribed qualifications for membership.

PROHIBITED USE: A use that is not permitted in a zoning district.

PROPERTY: Real, tangible, and intangible personal property.

PROXIMATE CAUSE: That which, in natural and continuous sequence, unbroken by an efficient, intervening cause, produced the result complained of and without which the result would not have occurred.

PUBLIC AUTHORITY: The City of Box Elder, State of South Dakota, or the United States, any of their agencies or instrumentality's, and any body or official thereof possessing power or authority delegated by the public authority.

PUBLIC USES: Public parks, schools and administrative, cultural and service buildings not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

PUBLIC UTILITY: Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations, to the public electricity, gas, steam, communication, telegraph, transportation or water.

PUBLIC UTILITY EASEMENT: A right granted by an owner of property to a public utility or governmental agency to erect and maintain poles, wires, pipes, or conduits on, across, or under the land, for telephone, electric power, gas, water, sewer, or other utility services.

PUBLIC RIGHT-OF-WAY: The entire area between property boundaries which is: owned by a government, dedicated to public use, or impressed with an easement for public use; primarily used for pedestrian or vehicular travel; and publicly maintained, in whole or in part, for such use. "Right-of-way" includes without limitation the public street, shoulder, gutter, curb, sidewalk, sidewalk area, parking or parking strip, and any other public way.

PUBLIC WAY: Any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

A lot or parcel or portion thereof used for the purpose of extracting stone, sand, minerals, gravel or top soil for sale as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

RADIO OR TELEVISION BROADCASTING STATION: An establishment engaged in transmitting oral and visual programs to the public and which consists of a studio, transmitter, tower, and antenna(s).

RCRA: Rapid City Regional Airport.

REASONABLE USE DOCTRINE: A common law principle that prohibits the use of one's property in such a way as to deprive others of the lawful enjoyment of their property.

RECREATION FACILITY: A place designed and equipped for the conduct of sports and leisure-time activities. (Example: Country clubs, riding stables, golf courses, amusement rides and any other recreational facilities or centers public or private).

RECREATIONAL VEHICLE: Any vehicle or structure capable of being mounted on, attached to or towed with a hitch by a conventional motor vehicle and for which no special road travel permit is required and having a body width not exceeding eight (8) feet exclusive of appendages (door knobs, handles, window or door sills, vents, etc. and including travel trailers, camping trailers, fifth wheel trailers, pickup campers, motor-homes and intended for temporary or transient living and/or sleeping quarters.

RECREATIONAL VEHICLE PARK (RV PARK): Any lot or parcel of land upon which

two or more sites are located, established, or maintained for occupancy by recreational vehicles for a fee as temporary living quarters for recreation or vacation purposes.

REGULATORY FLOOD: A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood generally has a frequency of approximately 100 years determined from an analysis of floods on a particular stream and other streams in the same general region.

RELIGIOUS USE: A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

RESEARCH LABORATORY: A facility for investigation into the natural, physical, or social sciences, which may include engineering and product development.

RESIDENCE: A home, abode, or place where an individual is actually living at a specific point in time.

RESIDENTIAL DENSITY: The number of dwelling units per acre of residential land.

RESIDENTIAL HEALTH CARE FACILITIES: Residences usually occupied by the frail elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and may provide other services, such as recreational, social, and cultural activities, financial services, and transportation.

RESTAURANT: An establishment where food and drink are prepared, served, and consumed, mostly within the principal building.

RETAIL CLUSTER SHOPPING CENTER: A shopping center containing less than sixty thousand (60,000) square feet of gross floor area, but without common open parking between the building and the street.

RETAIL OR SERVICE ESTABLISHMENT: An establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry

REZONE: To change the zoning district classification of particular lots or parcels of land.

REZONING APPLICATION: A request for a change of zoning district to permit new uses or prohibit one or more current uses or to amend the current requirements.

RIGHT-OF-WAY LINES: The lines that form the boundaries of a right-of-way.

ROOF: The outside top covering of a building or structure.

RUBBISH: The term "rubbish" shall include paper, boxes, and cartons, all household wastes other than garbage, grass clippings, tree leaves, waste building materials or there similar materials not regulated by the Environmental Protection Agency.

RUBBLE: Stone, brick, concrete, or similar inorganic material, excluding ash, asphalt waste tires, trees, yard waste, regulated asbestos-containing waste materials, and solid waste, as defined as SDCL 34A-6-1.3(18).

RUBBLE SITE: A specific portion of a parcel of land used to stockpile and bury rubble.

RUNWAY: A defined rectangular area, with no curves or tangents, of an airport prepared for the landing and taking off of aircraft along its length.

SANITARY SEWER: A municipal or community sewage disposal system of a type approved by the State Department of Environment and Natural Resources.

SCHOOL, PRIVATE: An institution of learning that is not tax supported, including colleges and universities.

SCHOOL, PUBLIC: A tax-supported institution of learning, including collage's and universities.

SCREENING: A method of visually shielding or buffering one abutting or nearby structure or use from another by the installation of fencing, walls, berms, or densely planted vegetation.

SELF-STORAGE FACILITY: A building or group of buildings containing separate, individual, and private storage spaces of varying sizes that are available for lease or rent for varying periods of time.

SETBACK. The horizontal distance between a building (measured from the building line at grade) and a lot line.

SETBACK LINE. That line that is the required minimum distance from any lot line and that establishes the area within which the principal structure may be erected or placed.

SEWAGE PRIVATE: An on-site method of sewage treatment, designed, installed operated and maintained by the owner of the premises in accordance with the requirements and standards of the Department of Environment and Natural Resources

SEWAGE, PUBLIC: A sanitary system owned, operated and maintained by a public agency, whereby waterborne wastes from sanitary facilities in dwellings, accessory buildings, business or industrial establishments or any combination thereof are conducted through pipes too a sewage treatment plant and disposal system approved by the Department of Environment and Natural Resources as to design and construction and operated and maintained in accordance with the standards and requirements of said department.

SHED: An accessory structure or building used primarily for storage purposes.

SHOPPING CENTER: A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

SIDEWALK: A slab of concrete utilized for pedestrian foot traffic, which is located within the public Right-of-Way and is a minimum of four (4) feet in width.

SIDEWALK AREA: Means the area between the curb of a street and the adjacent property lines.

SIDEWALK CAFÉ: A restaurant with tables on the sidewalk in front or on the side of the premises.

SIDEWALK DISPLAY: The outdoor display of merchandise for sale by a business use.

SIDEWALK SALES: Retail sales of a short-term and temporary nature conducted on the sidewalk or adjacent to the indoor establishment of the tenant or owner without permanent improvement made to the site.

SITE PLAN: A plan drawn to scale showing uses and structures proposed for a parcel of land as required by the applicable regulations. It includes lot lines, streets, building sites, reserved open space and other specific development proposals, similar to a plot plan.

SIGHT TRIANGLE: A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SIGN: Any identification, description, illustration, or device, illuminated or non-illuminated, which directs attention to a product, service, place, activity, person, institution, business, opinion, or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, billboard, pennant, placard, or temporary structure designed to advise, identify, or convey information.

SIMILAR USE. A use that has the same characteristics as the specifically-cited use in terms of trip generation and type of traffic, parking and circulation; utility demands;

environmental impacts; physicals space needs; and market area.

SMALL ANIMAL CLINIC. An establishment operated by a licensed veterinarian where small animals and household pets are treated for injuries and diseases on a primarily outpatient basis, although temporary indoor kenneling of recovering animals is allowed.

SPOT ZONING: The singling out of a lot or a small area for a zoning change which is out of harmony with the comprehensive plan and surrounding land to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.

STABLE: Any premises or part thereof where horses or other equine animals are boarded, cared for, maintained, or trained for a fee.

STEALTH TELECOMMUNICATIONS FACILITY: A telecommunications facility that is integrated as an architectural feature of a structure so that the purpose of the facility for providing wireless services is not readily apparent to a casual observer.

STEEP SLOPE: Land areas where the slope of the ground exceeds 20%.

STOCKYARD: A lot or building in which transient cattle, horses, sheep, or swine are temporarily kept for market, shipping, or slaughter.

STORY: That portion of a building included between the surface of any floor and the surface of the next floor 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 usable or unused under-floor space is more than 6 feet above grade, as defined herein, for more than 50 percent of the total perimeter or is more than 12 feet above the grade, as defined herein, at any point, such usable or unused under-floor space shall be considered as a story.

STORY, FIRST: The lowest story in a building that qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet below grade, as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet below grade, as defined herein, at any point.

STORY, HALF: A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

STREET. A public thoroughfare which affords the principal means of access to abutting property.

STREET CENTERLINE OF: A line established as a centerline of a street by the City Council, or any state county or other official or public agency having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or if there be no centerline established or if there exists conflict among several maps, the centerline of a street shall be line lying midway between the street right-of-way lines thereof. When the street lines are indeterminate and pavement or a well defined traveled way exists, the centerline is assumed to be a line midway between the edges of such pavement or traveled way.

STREET FURNITURE. Constructed, above-ground objects such as bollards, bus shelters, fountains, kiosks, outdoor seating, planters, sculpture, telephone booths, and trash receptacles that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to and used by the public.

STREET GRADE: The officially established grade of the street upon which a lot fronts or in its absence the established grade of other street upon lots abuts, at the midpoint of the frontage of the lot thereon. If there is no official established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

STREET HARDWARE: Mechanical and utility systems, usually located within a street right-of-way, such as directional signs, hydrants, lighting standards, manhole covers, traffic signals, and tree grids.

STREET INTERSECTION: Any street which joins another street at an angle, whether or not it crosses the other.

STREET LINE: The legal boundary line where the street right-of-way line and the property line of the abutting property coincide.

STREET PRIVATE: A thoroughfare which affords the principal means of access to abutting property, and is not maintained by a public entity.

STREET PUBLIC: Any existing public or dedicated right-of-way thirty feet or more in width, approved and accepted by the City Council for public maintenance.

STREETSCAPE: A design term referring to all of the elements that constitute the physical makeup of a street and that, as a group, define its character, including building frontage, street furniture, street paving, landscaping (including trees and other plantings), awning and marquees, signs, and lighting.

STRIP COMMERCIAL DEVELOPMENT: Commercial or retail uses, usually one story high and one store deep, that front on a major street.

STRUCTURE: A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Fences, walls used as fences, poles, lines, cables, mains, or other transmission or distribution facilities of public utilities are not considered to be structures under this definition.

SUBDIVISION: The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development for residential, industrial, commercial, or other use.

SUBSTANTIAL IMPROVEMENT: Any extension, repair, reconstruction, or other improvements of a property, the cost of which equals or exceeds 50% of the assessed value of a property either before the improvement is started or, if the property has been damaged and is being restored, before the damage occurred.

SUPERMARKET: A retail establishment primarily selling food as well as other convenience and household goods.

SUPPORT STRUCTURE: A structure designed to support telecommunications facilities including, but not limited to, monopoles, towers, and other freestanding self-supporting structures.

TANK FARM: An open-air facility containing large, above-ground containers for the bulk storage of material in liquid, gaseous, powder, or pellet form.

TAVERN: An establishment in which alcoholic beverages are served, primarily by the drink, and where food or packaged liquors may also be served or sold.

TELECOMMUNICATIONS FACILITY (TF): Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications service (PCS), or paging service. A **TELECOMMUNICATIONS FACILITY** can consist of accessory equipment, a support structure, and one or more antennae. The following are not considered to be TF: antennae or satellite dishes used by residential households for radio and television reception; commercial television and radio broadcast towers and associated facilities; and ham radio or amateur radio facilities.

TELECOMMUTING: An arrangement for performing work at a location other than the primary work location, such as at home or in a satellite office, and sending and receiving

material by phone, e-mail, fax, or other electronic means.

TEMPORARY HOUSING: Any mobile home, tent, camper, or other structure used for human shelter that is designed to be transportable and is not connected to another structure, or to any utilities system.

TEMPORARY OUTSIDE DISPLAYS AND SALES: The display or sale of goods or merchandise not in or from an enclosed permanent building to be conducted for no more than 24 days at a single location one time in a calendar year.

TEMPORARY STRUCTURE: Any structure, building or edifice which is not placed on a foundation and is utilized for a period of less than 30 days.

TENT AND TENT ACTIVITIES: Any canopy, temporary structure, enclosure or shelter constructed of fabric or pliable material. Tents, canopies and temporary membrane structures shall not be used for a period of more than 30 days at a single location.

TERRACE: A level, landscaped, and/or surfaced area, also referred to as a patio, directly adjacent to a principal building at the finished grade and not covered by a permanent roof.

THEATER: A building or part of a building used to show motion pictures or for dance, drama, musical, or other live performances.

TOWER: A monopole or lattice-type structure, guyed or freestanding, that supports one or more antennae or wind energy generators.

TRANSIENT/TEMPORARY MERCHANT: Any person whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling, or delivering goods, services, wares and merchandise, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, shops or any streets, alleys or other places for the exhibition and sale of such goods, wares and merchandise, privately; provided, that such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery. The term "transient merchant" shall include the terms "itinerant merchant" and "itinerant vendor".

TRANSFER OF DEVELOPMENT RIGHTS (TDR): The removal of the right to develop or build on land in one area and the transfer of that right to another area or district where such transfer is permitted.

TRANSITIONAL SURFACE: A portion of the airspace, defined by the FAA, as the lowest altitude for an aircraft to use and to safely transition between the Primary Surface and the Approach Clearance Surface or between other surfaces. This surface (altitude) increases at a constant rate as it goes outward and upward from the runway surface.

USE: The principal purpose, by right for which a lot and/or the main building thereon is designed, arranged or intended and for which it may be used, occupied or maintained.

USE, ACCESSORY: A subordinate use which is incidental to and customarily found in connection with the principal use, and located on the same lot with the principal building or use. An accessory use shall not exceed one-fourth of the use or area of the main business or building.

USE, NON-CONFORMING: A use, of a building, structure, parking lot, sign or portion thereof which was lawfully established but which, due to the application of this title, no longer conforms to the regulations of the zone in which it is located, as defined in this title.

USE, PERMITTED: A use which is listed as permitted by right in a zoning district. Non specified uses which are similar to those specified are also permitted, by right, except as otherwise restricted within this chapter.

USE PERMITTED ON REVIEW: See **CONDITIONAL USE**.

UTILITIES: Municipal, franchised and contracted utilities.

VARIANCE: A relaxation of a restriction of the code, granted by the Board of Adjustment, where by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of the code restriction, would result in unnecessary hardship, while meeting the intent of the Ordinance.

VESTED RIGHT: A right which has been legally established and cannot be revoked by subsequent conditions or changes in law without due process of law. There is no vested right to an existing zoning designation.

WAY: A street or alley or other thoroughfare or easement permanently established for passage of persons, vehicles or public services.

WAYSIDE/ROADSIDE STAND: A structure designed, arranged or used for the display or sale of agricultural products grown or produced only on the premises upon which such stand is located.

WHOLESALE TRADE: Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND ENERGY SYSTEM (WES): An integrated system that converts wind movement into electricity, consisting of (but not limited to) a tower, generator(s), blades, a power collection system including pad-mounted transformers, and electrical interconnection systems.

YARD: Open space, located on the same lot with a building or group of buildings, lying between the building or outer building of a group and the nearest lot or street line, unoccupied and unobstructed from the ground upward.

YARD DEPTH: The shortest horizontal distance between a lot line and a yard line.

YARD, EXTERIOR SIDE: A side yard that extends from the front yard to the rear yard between the side street line and the nearest part of any building and/or structure on the corner lot.

YARD, FRONT: Yard, for which the front door of the home faces and the home is addressed, extending across the full width of a lot, between the front lot line (or the proposed front street line if such line falls within the lot) and the nearest line of the building or the enclosed portion thereof. The depth of the yard is the shortest horizontal distance between the existing front lot line or proposed front street line and the nearest point of the building or enclosed portion thereof, and extending from side lot line to side lot line on interior lots.

YARD, REAR: Yard, opposite the front yard extending across the full width of the lot between the rear lot line and the nearest line of the building, porch or projection thereof. The depth of the rear lot line and the nearest point of the building, porch or enclosed portion thereof. When the rear lot line is less than ten feet long or when the lot is pointed at the rear, the depth of the rear yard is measured to an assumed rear lot line, as defined under "Lot Line, Rear."

YARD, SIDE (INTERIOR): Yard, between the side lot line perpendicular to the front and rear yards, (or proposed side street line, if such line falls within the lot) and the nearest line of a building, porch or projection thereof, extending from the front yard to the rear yard, or if in the absence of either such yards, to the front lot line and the rear lot line. The width of the side yard is the shortest distance between the side lot line and the nearest point of the building, porch or projection.

ZERO LOT LINE: A development form in which a building is sited on one or more lot lines with no yard, or zero setback. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot.

ZONING CERTIFICATE: A written statement issued by the Zoning Office authorizing buildings, structures and uses thereof and the use of land or the changes in use in accordance with the provisions of this ordinance and for the purpose of carrying out and enforcing its provisions.

ZONING MAP: The Zoning Map for the City of Box Elder, Pennington and/or Meade County, South Dakota, including sections or portions thereof, adopted as part of this ordinance, together with all amendments, modifications and changes thereto subsequently adopted.

153.005: SEVERABILITY AND SEPARABILITY:

Should any Article, Section, Subsection, or Provision of this ordinance be found to be or declared invalid or unconstitutional by a court or competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

ADOPTION OF A COMPREHENSIVE PLAN, A MAJOR STREET PLAN, REGULATIONS, AND CODES

153.15 ADOPTION OF A COMPREHENSIVE PLAN:

The Council has adopted a comprehensive plan, to provide for the orderly growth and development of the Box Elder community.

153.016 ADOPTION OF A MAJOR STREET PLAN:

The Council has adopted a major street plan that has been filed in the Finance Office and with the Register of Deeds of Pennington and Meade Counties.

153.017 ADOPTION OF FLOOD DAMAGE PREVENTION REGULATIONS:

The Council has adopted flood damage prevention regulations, as codified in Title 15, Chapter 151 of this code of ordinances, to provide for the regulation of flood hazard areas within the jurisdiction of the city.

PERMIT REGULATIONS

153.055 GENERAL PERMIT REQUIREMENTS:

- (A) The permit regulations established in this subchapter are intended to supplement the permit regulations set forth in the building and property maintenance codes adopted by the city. Should conflicts between these

regulations be discovered, the Planning Office shall determine which regulations, or parts thereof, will apply.

- (B) Permit applications shall be made to the Planning Department on forms provided by the City. Permits may be issued only by Planning Department. Unless stated otherwise in the following sections, the work described in a permit must be commenced within six months of the date of issuance of the permit or the permit shall become void. Once commenced, the work shall not be suspended or abandoned for a period of six months at any time after work has begun or the permit shall become void. Further, the work described in a permit must be completed within 12 months of the date of issuance of the permit or the permit shall become void. The term of a permit may be extended, before its expiration, at the discretion of the Chief Building Official or an authorized designee.
- (C) The Chief Building Official or authorized designee may suspend or revoke a permit issued under this chapter whenever a permit is issued in error, issued on the basis of incorrect or incomplete application information, or issued in violation of any city ordinance or regulation. Notice of suspension or revocation shall be made in person or by first class mail.
- (D) Unless otherwise stated in ordinance, permit fees shall be annually be set by resolution by the Council. The permit fee shall be payable to the city as part of the submission of the permit application. Permit applications submitted after building, demolition, grading, moving, or parking has begun are subject to a late application fee in addition to the permit fee.
- (E) The City Public Works Department shall not provide connection to utilities supplied by the city to structures or land deemed to be in violation by the Code Enforcement Agency or the Chief Code Enforcement Officer of building, conditional use, grading, moving, or parking permit requirements until full compliance with the provisions of this chapter are met.

153.056 APPROACH PERMIT REQUIREMENTS:

- (A) An approach permit shall be obtained, before construction begins, for any driveway or private access road approach connecting a parcel to a collector or arterial street.
- (B) Approach permits are not required for connecting parcels to local or minor streets
- (C) Applications for approach permits shall be obtained by the property owner or general contractor from Planning Office. Applications shall be subject to review and approval by the Public Works Director.
- (D) Applications for approach permits shall be accompanied with a scaled site plan map that indicates the location and dimensions of the proposed approach. The map shall convey the length, diameter, and material of any culvert(s) within the approach.

153.057 CONDITIONAL USE PERMIT REQUIREMENTS:

(A) An approved Conditional Use Permit shall be obtained from the Planning and Zoning Office by the landowner, before construction begins or a new use is established, for those uses or structures that are not a permitted, prohibited, or accessory use or structure (as defined in this chapter) within the municipal limits of the city.

(B) An application for a conditional use permit shall be obtained by the property owner from the Planning & Zoning Office. A conditional use permit may be approved by the Council after review and recommendation by the Planning Commission and issued by the Planning Director or his or her designee in accordance with this chapter

153.058 GRADING PERMIT REQUIREMENTS:

(A) A grading permit shall be obtained from the Planning Office, before construction begins, for any clearing, filling, or grading of:

- (1) One or more acres of land for non-agricultural or non-gardening purposes;
- (2) Previously undisturbed or undeveloped parcels of land for residential, public, commercial, or industrial uses;
- (3) Land within major drainage easements;
- (4) Land within or adjacent to FEMA-designated flood hazard areas;
- (5) Land for construction of subdivision roads or utilities; or
- (6) The installation, readjustment, or replacement of a culvert in any driveway or drainage easement.

(B) Grading permits are not required for clearing, filling, or grading of: land for agricultural or gardening purposes; previously disturbed or developed land for expansion of existing residential, public, commercial, or industrial uses of less than one acre located outside of FEMA-designated flood hazard areas or major drainage easement areas.

(C) Applications for grading permits shall be obtained by the property owner or general contractor from the Planning Office. Applications may be subject to review by the Public Works Director and/or the City Engineer. Construction shall not commence until the grading permit has been approved by the Planning Commission. The building official may require the submission of a stormwater protection plan for the grading site before the grading permit is approved.

(D) Applications for grading permits shall, at the discretion of the Planning Director, be accompanied with a scaled site plan map that indicates the extent and areas to be cleared, filled, or excavated. The map shall convey the location of any existing or proposed approach; culvert; structure; well; cistern; septic tank; absorption field; utility line; driveway; parking area; road; flood hazard area boundary; stream or drainage way; water body; rock outcrop; and property line.

The estimated total area to be disturbed shall be noted on the map. Applications shall be accompanied by a copy of the authorization to discharge under the surface water discharge system from SDDENR when the anticipated area of land disturbance totals one or more acres when such authorization is required.

- (E) The construction authorized by a grading permit must begin within six months of permit issuance and be completed within 12 months of permit issuance unless otherwise first authorized by the Planning Director.

153.060 MANUFACTURED HOME PARK REQUIREMENTS:

All new or expanded manufactured housing development after January 1, 2016, shall be required to meet all zoning, plating and subdivision regulations for district General Residential Manufactured (GR-4) development.

Those Mobile/Manufactured Home parks in existence prior to January 1, 2016 will be grandfathered, however, may at no time expand their existing lot numbers or the boundaries of the park without complying with all adopted residential subdivision regulations of zoning district GR-4.

The grandfather clause does permit existing manufactured home parks to remove and replace homes on existing lots, the replacement home shall, at a minimum, be twenty (20) or few years in age and sixteen (16) feet in width as defined under the definition of a Manufactured Home.

The replacement structure shall be intended to be a single-family dwelling, designed to be a permanent residence, that meets or exceeds the 1994 Federal Manufacture Home Construction and Safety Act (42 U.S. C. Sec. 5401, CRF Part 3280), commonly known as HUD (U.S. Department of Housing and Urban Development) Code.

Discontinuing in its entirety, the utilization of the land for a **mobile/manufactured home park** that has been grandfathered for more than 180 day period as a whole, shall nullify the grandfather clause, and the development shall be brought into compliance with existing zoning regulations.

153.061 MOVING PERMIT REQUIREMENTS: (A) A moving permit shall be obtained from the Planning Office, before moving begins, to move any factory-built home or other structure intended to be occupied as a residence, storage unit, or business into, out of, through, or within the municipal limits of the city. Exceptions to this requirement shall be made to allow the vehicles moving such structures to: move through the city while on I-90; to exit and re-enter I-90 on detour routes designated by the South Dakota Department of Transportation; or to exit and re-enter I-90 by the shortest route to visit a truck stop. A moving permit shall become void 30 days after its date of issuance.

- (B) Applications for moving permits shall be obtained by the mover or structure owner from the Planning Office. Applications for moving structures through or out of the city or to move a factory-built home into a manufactured home park within the city may be approved by the Planning Director or his or her designee. Movement of structures shall not take place until the moving permit has been approved and the Planning Director or his or her designee has issued the moving permit and moving permit placard. Moving permits shall not be issued to move mobile homes into or within the municipal limits of the city.
- (C) A moving permit placard shall be attached to the rear of the structure being moved and shall be visible to following traffic while within the municipal limits of the city. A moving permit placard is intended for use on a single permitted structure and shall not be attached to any other structure.
- (D) There shall be a 24-hour delay after the issuance of a moving permit, before moving begins, to move any factory-built home or other structure that has been occupied as a residence or business out of the city to ensure that the Public Works Department has had sufficient time to remove the city's water meter and appurtenant parts. The Building Official may waive the delay with the prior approval of the Public Works Director.

153.062 INSPECTION OF FACTORY-BUILT HOMES:

All factory-built homes moved into or within the city shall be inspected, before occupancy, by the Planning Office, or their authorized designee, for compliance with this chapter. Any factory-built home that, in the opinion of the chief building official, cannot be brought into compliance with this chapter shall not be occupied and shall be removed from the city within seven days. Homes so removed from the city shall be allowed to use the approved moving permit used to bring the home into the city.

153.063 STRUCTURE PARKING PERMIT REQUIREMENTS:

- (A) A parking permit shall be obtained for any structure that is moved onto any property, other than into a manufactured home park, and is to be parked or stored on the property for more than 72 hours before being placed on a permanent foundation. Factory-built homes shall be skirted within 30 days of being moved onto a property unless a parking permit has been obtained. A parking permit shall become void 90 days after the date of issuance of the parking permit.
- (B) Applications for parking permits shall be obtained by the owner from the Planning Office. Applications shall be reviewed by, and may be approved with conditions by, the Planning Director. Parking of said structure shall not take place until the Planning Director or his or her designee, has issued the approved parking permit and parking permit placard.
- (C) A parking permit placard shall be attached to the side of the structure being parked that faces the abutting street and shall be visible to passing traffic.

Structures whose parking permits have expired shall be deemed to be in violation of this chapter and shall also be deemed to be a public nuisance which may be subject to immediate abatement by the city.

153.064 GROUNDS FOR MOVING OR PARKING PERMIT DENIAL:

More than two violations of this subchapter in a three-year period by the mover, owner, or manufactured home park is a sufficient basis for denial by the Planning Office of a moving or parking permit.

ZONING REGULATIONS

153.095 PURPOSE:

It is the purpose of this Zoning Ordinance to promote the safety, health, morals, convenience and general welfare; to encourage the use of lands and natural resources in the city in accordance with their character, adaptability and suitability for particular purposes; to conserve social and economic stability, property values and the general character and trend of community development; to prevent excessive concentration of population; to lessen congestion on the public streets and highways; to facilitate adequate provision of streets and highways, sewage and drainage, water supply and distribution, educational and other public resources, by establishing herein standards for community development in accordance with these objectives and by providing for the enforcement of such standards.

153.096 SCOPE OF GENERAL REGULATIONS:

The regulations applying to each district include specific limitations on the use of land and structures, height and bulk of structures, density of population, lot area, yard dimension and area of lot that can be covered by structures.

- (A) These requirements are intended to regulate the erection, construction, reconstruction, alteration, and use of buildings and structures and the use of land. All regulations shall be uniform for each class or kind of building throughout each zoning district.
- (B) The requirements set forth in the zoning districts shall be considered as minimum requirements for the zoning district that must be met or exceeded by the individual property owner.
- (C) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used or occupied except in conformity with the use regulations prescribed for the zoning district in which the building is located.
- (D) An accessory and/or utility structure shall not be occupied for residential use.
- (E) No land shall be used or occupied and no structures shall be occupied except in conformance with all regulations herein established and upon performance

of all conditions herein set forth.

- (F) It shall be the responsibility of the landowner to ensure compliance of any structure moved onto or existing on his lot with the regulations set forth in these regulations.
- (G) Land which is declared to be in violation of these regulations by a code enforcement staff or the code enforcement agency employed by the Planning Office is subject to the penalties set forth in this chapter, with each day that a violation exists constituting a separate offense.
- (H) Where reference is made in this Ordinance to the requirements or regulations of a Zoning District, it is intended that Overlay District requirements or regulations shall be included in the reference.
- (I) Land uses within an Overlay District that were established before the effective date of the Overlay District and that do not comply with the Overlay District requirements shall be allowed to continue as a legally nonconforming use until such use is changed, at which time the use must come into compliance with the Overlay District requirements.
- (J) The Commission and Council may consider the recommendations provided in Department of Defense Instruction Number 4165.57, dated May 2, 2011 and the definitions provided in the Standard Land Use Coding Manual (SLUCM) by the Department of Commerce when determining appropriate land uses in noise and accident potential zones.
- (K) The Council hereby adopts the Zoning Overlay Districts that are described in this ordinance, below, to overlay and encompass the underlying Zoning Districts to impose additional land use regulations within the Overlay Districts that are intended to prevent or mitigate the impacts of natural or manmade hazards on land use and development.
- (L) The location and boundaries of the Overlay Districts established by this Ordinance are denoted and defined as shown on the most current Zoning Overlay Maps entitled "CITY OF BOX ELDER ZONING OVERLAY MAPS or AICUZ MAP". Said Zoning Overlay Maps are hereby incorporated into this Ordinance.
- (M) Land within an Overlay District that is not within the municipal limits of the City on the effective date of the Zoning Overlay Map shall be subject to the District requirements immediately upon annexation.
- (N) Where the requirements of an Overlay District conflict with the requirements of the underlying Zoning District, the requirements of the more restrictive shall apply.
- (O) The hazard zone limits that were used to establish the boundaries of Overlay Districts do not follow property boundaries and have been interpreted to attempt to follow property boundaries, or logical subdivisions of those boundaries, as closely as possible. Appeals of such interpretations shall be

made, in writing, to the Planning Coordinator, who shall rule on the appeal. Any person aggrieved by any ruling or decision of the Planning Coordinator may appeal said ruling or decision to the Council. Said appeal must be made in writing to the Planning Coordinator within fourteen (14) days of his ruling.

153.097 ZONING DISTRICTS AND THE ZONING MAP:

(A) For the purpose of promoting the public health, safety, morals, convenience and the general welfare of the community, the City of Box Elder is hereby divided into districts of thirteen (13) different types, each being of such number, shape kind and area and common unity of purpose and adaptability of use that are deemed most suitable to carry out the purpose of this ordinance.

The City will develop a list of legal descriptions of property lying within each district, lots, blocks and areas comprising each of foregoing thirteen (13) districts are as follows:

Name of Zoning District	District Code
Agricultural District	(AD)
Park Land	(PK)
Public Land	(PUB)
General Residential (Low Density)	(GR-1)
General Residential (Moderate Density)	(GR-2)
Residential – Mixed Use	(GR-3)
Residential – Manufactured (High Density)	(GR-4)
Light General Commercial	(GC)
Highway Service	(HS)
General Light Industrial	(GLID)
Heavy Industrial	(HID)
Open Space	(OS)
Transitional District	(NU)
Planned Development Overlay District	(PD)

(B) The Council may adopt Overlay Districts to encompass one or more zoning districts and/or parcels of property to impose additional regulations to be taken into account during the land development process for land subject to a natural or manmade hazard or other development restraint. Each Overlay District shall be named, its reason for creation stated, its boundaries defined, its regulations specified, and be adopted as a zoning amendment.

(C) The location and boundaries of the zoning districts established by this chapter are denoted and defined as shown on the most current Zoning Map entitled City of Box Elder Zoning Map. The zoning map is hereby incorporated into this chapter and replaces any previous zoning maps for the city.

(D) The location and boundaries of the zoning districts established by this Ordinance are denoted and defined as shown in the map entitled "Zoning Map of the City of Box Elder, Meade County and Pennington County, South

Dakota", adopted this day of, and certified by the City Finance Officer. The said map, together with everything shown thereon is hereby incorporated into this Ordinance as if fully set forth and described herein.

- (E) The Zoning Map shall be kept and maintained by the Planning Office and shall be available for inspection and examination by members of the public at all reasonable times as any other public record.

153.098 RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES:

Where uncertainty exists with respect to the precise location of any of the zoning district boundary shown on the zoning map, the following rules shall apply:

- (A) Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the center line of such street, highway, or alley.
- (B) Boundaries shown as following or approximately following platted lot lines or other property lines shall be construed to follow such property lines.
- (C) Boundaries shown as following or approximately following railroad lines shall be construed to follow the midline between the rails of such railroad lines.
- (D) Boundaries shown as following or approximately following the center line of streams, rivers, or other watercourses shall be construed to follow the channel center line of such watercourses.
- (E) Boundaries shown as following or approximately following the limits of political jurisdictions shall be construed as following such limits.
- (F) Where the application of these rules leaves a reasonable doubt as to the boundaries between two zoning districts, the regulations of the more restrictive district shall govern the entire parcel in question.
- (G) Whenever any dedicated public right-of-way or other public easement is vacated, the new lot line of the property to which the vacated portions of land accrue shall become the new boundary for the zoning district of the accruing land.

153.099 CONDITIONAL USE PERMITS:

- (A) Conditional uses, as provided herein, are declared to possess characteristics which require special consideration in order to ensure compatibility with other uses in the zoning district within which they are proposed. A conditional use permit shall first be approved by the Council for conditional uses which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations with a zoning district, but shall not be allowed under the general conditions of the zoning district as stated in these regulations.

- (B) A Conditional Use Permit (CUP) application shall be submitted to the Planning Office a minimum 21 days before a regular Commission meeting, at which the application will be reviewed. The application shall consist of the application form, site plans, maps or other supporting documents as requested by the Planning Director, and a non-refundable application fee. The application may be subject to the imposition of a late application fee if the use or building is begun before the CUP application is approved by the Council. The Planning Office shall notify by first class mail all landowners whose property is within 300 of The applicant's property.
- (C) The Commission shall hold a public hearing on the CUP application, having first given ten (10) or more days notice of the time and place of such hearing by publication in the city's legal newspaper. The Commission shall then review the CUP application and make its recommendation to the Council within 30 days of such public hearing and in accordance with the standards provided below. The Council shall make its determination on the application within (Thirty) 30 days of the date of recommendation by the Commission.
- (D) The Commission may recommend to the Council conditions and safeguards as deemed necessary to: protect and enhance the health, safety, and welfare of the surrounding area; affirm that the proposed use is necessary or desirable and provides a service or facility that contributes to the general well being of the community; and that such use will comply with the regulations and conditions specified in this Ordinance for such use. The Commission may recommend to the Council that the CUP be approved without conditions, be approved with conditions, or denied. The review of each CUP application shall consider the following criteria:
- (1) The request is consistent with applicable provisions of the comprehensive plan.
 - (2) The request shall not adversely affect adjacent properties.
 - (3) The request is compatible with the existing or allowable uses of adjacent properties.
 - (4) The request can demonstrate that adequate public facilities, including but not limited to roads, drainage, potable water, sanitary sewer, electrical power, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
 - (5) The request can demonstrate adequate provision for maintenance of the use of associated structures.
 - (6) The request has minimized, to the degree possible, adverse effects on the natural environment.
 - (7) The request will not create undue traffic congestion.
 - (8) The request will not adversely affect the public health, safety, or welfare.

- (9) The request conforms to all applicable provisions of this chapter.
- (10) The request may be subject to periodic review by the Commission to examine: the effectiveness of imposed conditions; the need for additional mitigating conditions; or the need for continued periodic review.
- (E) A CUP shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such building permit is abandoned or discontinued for a period of one year, it shall not be reestablished without authorization by the Council. A CUP shall be revoked when the applicant fails to comply with the conditions imposed by the Council. A CUP may be amended by the Council after review and recommendation by the Commission.

153.100 DISTRICT REGULATIONS:

(A) Agricultural District (AD):

- (1) **General description:** This District is intended to protect agricultural lands and to preserve the natural beauty and open character of forested and other natural growth areas from incompatible land uses.

"UNLESS OTHERWISE PERMITTED, no temporary Merchants, no temporary structures in association with temporary merchants are permitted in this district.

(2) Permitted uses:

- (a) Agricultural uses such as general farming (grain, hay, row crop, sod, or vegetable), forestry, grazing, or horticulture and wild crop harvesting, including roadside/wayside stands exclusively for the sale of products raised on the premises, but excluding commercial feed lots.
- (b) One single-family dwelling for occupancy by a family associated with the agricultural use, unless otherwise permitted under a Conditional Use Permit.
- (c) Conservation areas.
- (d) Transportation and utility easements, utility substations, alley's, Public R.O.W's or similar uses.

(3) Permitted Accessory uses:

- (a) Barns, shops, machinery storage sheds, grain bins, silos, corrals, and other uses or structures directly related to the agricultural use.
- (b) Detached garage.
- (c) Seasonal roadside/wayside stands used for the sale of agricultural products produced on the premise.

(4) Conditional Uses permitted on review:

- (a) Bed and breakfast, dude ranch, or other limited overnight guest rentals or similar uses, licensed by the State Department of Health and Regulation..
- (b) Additional single- or two-family dwellings for occupancy by a family or families associated with the agricultural use. With a minimum of no less than forty (40) acres per dwelling unit.
- (c) Horse boarding facilities, stables, or arenas.
- (d) Commercial greenhouses.
- (e) Public utility buildings, facilities, or structures such as detention ponds, sanitary sewer lagoons, potable water reservoirs and wells, pipeline valve and pumping stations, and wind energy generating towers radio cell phone towers, or similar uses.
- (g) On-premise signs complying with the sign ordinance.
- (h) Other agricultural uses or buildings not listed as permitted or accessory uses shall be reviewed on a case-by-case basis.
- (i) Stockyards, not to include commercial feeding operations.
- (j) Wholesale nurseries.
- (k) Wind energy systems.
- (m) Kennels

(5) Uses Not Permitted:

- (a) Junkyards
- (b) Landfills
- (c) Manufacture home parks, campgrounds, RV parks.
- (d) Off premise signs
- (e) Rubble sites
- (f) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- (g) No temporary merchants are permitted.
- (h) No temporary structures in association with temporary merchants shall be permitted in this district unless otherwise permitted.
- (i) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities
- (j) Adult Oriented Business.

(6) Minimum lot size: The minimum lot size for this district shall be forty (40) acres except for public utility, which may have a minimum lot size of 10,890 sq. ft. or one-fourth (1/4) acre.

(7) Minimum lot frontage (width): The minimum lot frontage for this district shall be two-hundred (200') feet.

(8) Minimum setbacks:

- (a) The minimum **front yard** setback for this district shall be thirty (30'-0") feet.
- (b) The minimum **interior side yard** setback for this district shall be Twenty (20'-0") feet.
- (c) The minimum **exterior side yard** setback for this district is sixty (60'-0") feet.
- (d) The minimum **rear yard** setback for this district shall be sixty (60'-0") feet.

(9) Maximum building coverage ratio: The maximum lot coverage ratio for this District shall be five (5%) percent.

(10) Maximum structure height: The maximum structure height for this district shall be thirty-five (35'-0") feet.

(11) Maximum density: The maximum density for this district shall be one dwelling unit per 40 acres or part thereof.

(12) Off Street Parking Required: No off street parking is required for this district.

(13) Flood Plain Requirements: Any structure constructed within this district must have its first floor elevation constructed one (1') feet above the base flood elevation stated on the city's FIRM map and comply with the City of Box Elder "**Flood Damage Prevention Regulations**" in Chapter 151.

No structures will be permitted to be constructed in the "Floodway", unless the new construction and/or substantial improvements are engineered and anchored to prevent flotation, collapse, or lateral movement of the structure, and shall be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy generated by the 100-year flood event.

EXCEPTION: Temporary structures:

All temporary structures associated with festivals, carnivals, and other temporary uses placed on sites within the community's FIRM rated area are required to:

- A. Be on the site for fewer than 14 consecutive days; and
- B. Be capable of being removed within four (4) hours.

(B) Park Land Zoning (PK):

- (1) General description:** This district is intended to be used for public recreation on publicly owned and with the intent to preserve the natural beauty and open character. This district may be found intermixed with other zoning districts.

Note: Intermixing of this zoning district shall not be construed as spot zoning.

(2) Permitted uses:

- (a) Public recreation areas (to include but not be limited to playgrounds, picnic areas, bike paths or similar uses)
 - (b) Public areas which are used for baseball, softball, football, soccer or similar recreational uses.
 - (c) Uses, which are entertaining or recreational in nature and are approved by the parks board and Box Elder City Council.
 - (d) Permanent structures may be permitted in this zoning district if they are incidental to the primary use.
 - (i) Said structures may be restrooms, equipment storage facilities, shelters, picnic areas, concession stands etc.
 - (ii) No facilities may be constructed for sleeping within this zoning district unless they are associated with an organized (licensed) campground.
 - (e) Campgrounds (public).
 - (f) Temporary structures in association with an event authorized by the Box Elder Park Board and/or Box Elder City Council City Council. Said structures must be removed within 24 hours of the close of said event.
 - (g) When in the best interest of the public, parking areas may be designated on park land to facilitate an event.
- (3) Permitted Accessory uses:** Accessory uses that are recreational in nature (Swings, climbing gym's, etc.).
- (4) Conditional Uses permitted on review:** When in the best interest of the public, uses, which are not listed above but are recreational or entertaining in nature, may be permitted under a conditional use permit and approval of the park board and/or Box Elder City Council.
- (5) Uses Not Permitted:**

- (a) Junkyards
- (b) Kennels
- (c) Landfills
- (d) Manufactured home parks, private campgrounds, RV parks.
- (e) Off premise signs
- (f) Rubble sites

- (g) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
 - (h) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities
 - (i) Adult Oriented Business.
- (6) Minimum lot size:** The minimum lot size for this district shall be a minimum lot size of 10,000 square feet.
- (7) Minimum lot frontage (width):** The minimum lot frontage for this district shall be one-hundred (100') feet.
- (8) Minimum setbacks:**
- (a) The minimum **front yard** setback for this district shall be ten (10'-0") feet.
 - (b) The minimum **interior side yard** setback for this district shall be ten (10'-0") feet.
 - (c) The minimum **exterior side yard** setback shall be a minimum of ten (10'-0") feet.
 - (d) The minimum **rear yard** setback for this district shall be ten (10'-0") feet.
- (9) Maximum building coverage ratio:** The maximum lot coverage ratio for this District shall be 10%.
- (10) Maximum structure height:** The maximum structure height for this District shall be twenty-five (25'-0") feet.
- (11) Maximum density:** The district shall not have a density designation.
- (12) Temporary Structures:** Temporary canopies, tents, awnings, etc. may be set up on park lands.
- (a) All temporary structures may not be erected for a period of more than two (2) days unless otherwise approved by the Park Board and/or City Council.
- (13) Off Street Parking Required:** When the park land exceeds 10,000 sq. ft. in area, one (1) hard surfaced parking space shall be provided for each additional 1,000 sq. ft. of park area.
- (12) Flood Plain Requirements:** Any habitable structure constructed within the 100-year flood hazard zone must have its first floor elevation constructed a minimum of one (1) foot above the base flood elevation stated on the city's FIRM map and comply with the City of

Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

No habitable structures will be permitted to be constructed in the "Floodway" unless they are engineered to meet the hydrostatic loads imposed by the 100 year flood event..

(C) Public Land District (PUB):

- (1) General description:** This district will consist of land, which owned by a government entity and is not classified in another zoning district.

This land may be intermixed among the other zoning districts. In this case if intermixing takes place it shall not be construed as spot zoning.

(2) Permitted uses:

- (a) Federal, state, county or city owned buildings.

(1) Structures that house the following shall be permitted: police, fire, public works, court houses, city hall, community centers, etc. or any similar in use which is in the best interest of the public.

- (b) Federal, state, county or city owned storage yards or maintenance facilities.

- (c) Public land designated as no use areas.

- (d) Public parking lots or areas.

- (e) Public water ways, drainage's or spillways.

- (f) Public landfills, sewer lagoons, water treatment facilities, or similar uses.

- (g) Temporary structures are permitted on lots zoned for government use, but may be erected for a period not to exceed twelve (12) at anyone time with in 500 calendar days.

- (3) Permitted Accessory uses:** Accessory uses that are governmental in nature.

- (4) Conditional Uses permitted on review:** When in the best interest of the public, uses, which are not listed above but are similar in nature, may be permitted under a conditional use permit and approval of the Box Elder City Council.

(5) Uses Not Permitted:

- (a) Junkyards
- (b) Kennels
- (c) Landfills
- (d) Manufactured home parks, campgrounds, RV parks.
- (e) Off premise signs
- (f) Rubble sites

- (g) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
 - (h)) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities
 - (i) Adult Oriented Business.
- (6) **Minimum lot size:** The minimum lot size for this district shall be a minimum size of 10,000 square feet.
- (7) **Minimum lot frontage (width):** The minimum lot frontage for this district shall be one-hundred (100') feet.
- (8) **Minimum setbacks:**
- (a) The minimum **front yard** setback for this district shall not be required.
 - (b) The minimum **interior side yard** setback for this district shall not be required.
 - (c) The minimum **exterior side yard** setback for this district shall not be required.
 - (d) The minimum **rear yard** setback for this district shall not be required.
- (9) **Maximum building coverage ratio:** The maximum lot coverage ratio for this District shall be 70%.
- (10) **Maximum structure height:** The maximum structure height for this district shall be sixty (60'-0") feet or four and one-half (4 & 1/2) stories.
- (11) **Maximum density:** The district shall not have a density designation.
- (12) **Temporary Structures:** Temporary canopies, tents, awnings, etc. may be set up on public lands with the permission of the governing body and/or City Council.
- (a) All temporary structures may not be erected for a period of more than two (2) days unless otherwise approved by the governing body and/or City Council.
- (13) **Off Street Parking Required:** Hard surface off street parking shall be provided at a ratio designated by Chapter 153.102 Section (AB)

(14) Flood Plain Requirements: Any habitable structure constructed within the 100-year flood hazard zone must have its first floor elevation constructed a minimum of one (1') foot above the base flood elevation stated on the city's FIRM map and comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151. No structures will be permitted to be constructed in the "FEMA designated Floodway".

(15) Landscaping: Landscaping shall be provided in quality and quantities as described in Chapter 156.

(D) General Residential District I (GR-1) (Low Density):

(1) General description: This district is intended to be used for single-family residential development with low population densities. Additional permitted uses will be reviewed by the city planning commission and city council. Recreational, religious and educational facilities may be permitted under a use on review because; they are normally required to provide the basic elements of balanced and attractive residential area.

No temporary merchants will be permitted

No temporary structures in association with temporary Merchants shall be permitted in this district.

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

Encroachment by Commercial, Industrial, or other use which conflict with the intent of this district are discouraged.

(2) Permitted uses:

- (a) Detached single-family homes which are of conventional construction and are constructed as per the adopted building code on site.
- (b) Attached single family homes which are known as town homes. (For the purpose of this section these homes shall have a separation wall of not less than one-hour construction which goes from foundation through the roof line which clearly makes them individual single family dwelling units) (For additional requirements, see #16)
- (c) Detached single-family manufactured homes (Modular) which shall be placed on a foundation, (excluding manufactured homes which are mobile in nature and have a manufactures serial number in addition to a steel frame acting as an intricate part of the structure) and are built in compliance with the codes adopted by the City of Box Elder and the State of South Dakota.

- (d) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of construction work.
- (e) Transportation and utility easements, alleys, and rights-of-ways.

(3) Permitted Accessory uses:

- (a) No more than two (2) Structures for storage which are less than one-hundred-twenty (120) sq. ft. in area may be permitted without a permit and/or being placed on a foundation.
- (b) Temporary or permanent accessory structures, garages, etc. and uses customarily incidental to the above use when located on the same lot as long as the overall building to land ratio does not exceed thirty (35%) percent. (No Exceptions).
- (c) Small agricultural gardens (less than 500 sq. ft.).
- (d) Signs, as regulated in Chapter 154.
- (e) In home daycare when licensed by the State of South Dakota.

(4) Conditional Uses Permitted on Review:

The governing body in accordance with provisions contained in "Procedures for Authorizing Uses Permitted Upon Review" may permit the following uses on review:

- (a) Churches or similar places of worship, with accessory structures but not including missions, revivals, tents or similar structures. (for the purpose of this section, missions, revivals or similar uses shall be known as any activity which takes place outside the permanent structure which causes more traffic, noise etc. than the primary use.) This section is not intended to prohibit activities such as preschool, Sunday school, or similar activities which may take place outside the structure.
- (b) Schools public or private.
- (c) Public parks, playgrounds and play fields, and neighborhood and municipal buildings and uses in keeping with the character and requirements of the district.
- (d) Libraries, museums, and historical monuments or structures.
- (e) Utility substations.
- (f) Golf courses, or country clubs, with adjoining grounds of not less than sixty (60) acres.
- (g) Cemeteries.
- (h) A planned residential development.
- (i) Home occupations which are clearly incidental in nature and which no

display except for regulated signage will be permitted on the exterior of the building being utilized in part for any purpose other described above or as described in the Subliminal Regulations section of this chapter.

- (j) Day care homes or group homes either for children or adults.
- (k) Townhomes subject to the regulations set forth in subsection (h) below
- (l) Detached garages as an accessory to a dwelling unit on the same or adjoining property.
- (m) Wind energy systems directly related to a residential use.

(5) Uses Not Permitted:

- (a) Junkyards
- (b) Kennels
- (c) Landfills
- (d) Manufacture home parks, campgrounds, RV parks.
- (e) Off premise signs
- (f) Rubble sites
- (g) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- (h) No temporary merchants are permitted unless otherwise approved by City Council.
- (i) No temporary structures in association with temporary merchants shall be permitted in this district unless otherwise approved by he City Council.
- (j) Temporary tents, canopies, etc. associated with storage of motor vehicles.
- (k) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities
- (l) Recreational Vehicles
- (m) Adult Oriented Business.

(6) Minimum lot size: The minimum lot size for this District shall be a minimum size of ten-thousand (10,000) square feet, unless the lot is not served by City water and sanitary sewer; in which case the minimum lot size shall be no less than one (1) acre.

(7) Minimum lot frontage (width): The minimum lot frontage for this District shall be one-hundred (100') feet.

(8) Minimum setbacks:

- (a) The minimum **front yard** setback for this District shall not be less than twenty-five (25'-0") feet.
- (b) The minimum **interior side yard** setback for this District on all

interior lots shall have a minimum side yard of not less than 10' from property lines. Structures which are two (2) or more stories in height or have an eave height of more than eighteen (18'-0") feet above finished grade shall have one (1'-0") foot of side yard for each two (2) feet in eave height above finish grade. But, in no case shall the side yard be less than ten (10'-0") feet.

Exception: Adjoining townhomes/condominiums or attached two-family dwellings with a one-hour fire separation may have zero (0') feet setback on interior walls

- (c) **Exterior side yards on corner lots:** All lots which have side yard abutting a street shall have a minimum yard setback of not less than eighteen (18'-0") feet from the property line.
- (d) The minimum **rear yard** setback for this District shall not be less than twenty-five (25) feet. Detached accessory structures and garages may be located no closer than ten (10'-0") feet from the rear property line.
- (9) **Maximum building coverage ratio:** The maximum lot coverage ratio for this District shall be 35%.
- (10) **Maximum structure height:** The maximum structure height for this District shall be twenty-eight (28'-0") feet to eave height or two and one-half (2 ½) stories. Detached accessory structures shall have a maximum eve height of twelve (12) feet.
- (11) **Maximum density:** The District shall have a density designation of not more than four (4) lots per acre. Exception; When approved for "Townhome" the density restriction may be waived..
- (12) **Temporary Structures:** Temporary canopies, tents, awnings, etc. may be set up on temporary basis, but in no case shall they be utilized on a permanent basis for storage of motor vehicles.
- (a) All temporary structures may not be erected for a period of more than three (3) days unless otherwise approved by the governing body; or utilized for personal greenhouses producing agricultural products for personal use.
- (13) **Off Street Parking Required:** Hard surface off street parking at a minimum of 20' X 20' must be provided for each single family home. All other drives and or parking spaces utilized for motor vehicles shall be hard surface.

Other structures/occupancies required parking shall be regulated as per Chapter 153.102 Section (AB)

- (14) Flood Plain Requirements:** Any structure constructed within the 100-year flood hazard zone must have its first floor elevation constructed a minimum of one (1') feet above the base flood elevation stated on the city's FIRM map and comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

No structures will be permitted to be constructed in the "Floodway".

- (15) Landscaping:** Landscaping shall be provided in quality and quantities as described in Chapter 156.

- (16) Townhome Regulations Within GR-1:** The following regulations shall apply to any lot containing townhomes.

(a) Area Regulations:

- (i) **Front yard:** All lots shall have a minimum of not less than twenty-five (25'-0") feet from the front property line to the front of the structure.
- (ii) **Side yard:** Interior lots may be zero (0') feet when the buildings are adjoined, however, when the buildings are not adjoined, they shall have a minimum of not less the ten (10'-0") feet from the side property line to the structure. Structures which are two (2) or more stories in height or have an eave height of more than eighteen (18'-0") feet above finished grade shall have one (1'-0") foot of side yard for each two (2) feet of eave height above finished grade, but in no case less than ten (10'-0") feet.
- (iii) **Exterior side yards on corner lots:** All lots which have a side yard abutting a street shall have a minimum side yard setback of not less than eighteen (18'-0") feet from the property line to the structure.
- (iv) **Rear yard:** All lots shall have a minimum rear yard of not less than twenty-five (25'-0") feet from the property line to the primary residential structure. Detached accessory structures and garages may be located no closer than ten (10'-0") feet from the rear property line.

Exception: Detached Accessory structures less than 120 square feet, may be place no closer than five (5") from the rear lot line.

- (v) **Lot width:** All lots shall have a minimum lot width of not less than fifty (50'-0") feet.

(vi) **Lot area:** All lots shall have a minimum lot area of not less than 5000 sq. ft. when sharing a common wall.

(vii) **Maximum lot coverage:** All lots shall not have more than 45% of its total lot area covered by permanent structures.

(viii) **Height regulations:** No structure shall exceed two and one-half (2 ½) stories twenty-eight (28'-0") feet in height to the eave.

(b) Off Street Parking:

A minimum of one 20' x 20' hard surface off-street parking area must be provided for each single family unit. All drives used for the parking of motor vehicles shall be hard surfaced. (See Chapter 153.102 Section (AB) for additional requirements)

(c) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1') foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

(E) General Residential District II (GR-2) (Moderate Density):

(1) **General description:** This is a residential district to provide for medium population density the principal uses of land is for one and two-family residential uses. Certain use which are more compatible with intensive residential uses than with commercial uses permitted. The city planning commission and city council may permit the recreation, religious, education and other related uses in keeping with the residential character of the district on review.

(2) Permitted uses:

- (a) Any uses permitted in GR-1 district.
- (b) Detached single-family homes which are of conventional construction and are constructed on site.
- (c) Attached single family dwellings, which are intended for sale or lease to more than two but less than eight individual families. Said structure shall be not more than two stories in height (for the purpose of this section these homes shall have a separation wall of not less than one-hour construction which

goes from foundation to the underside of the roof line which clearly makes them individual single family dwelling units)

- (d) Detached single-family manufactured (Modular) homes which shall be placed on a foundation, and are built in compliance with the codes adopted by the City of Box Elder and the State of South Dakota. (excluding manufactured homes which are mobile in nature)
- (e) Conservation areas.
- (f) Recreation areas and parks.
- (g) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of construction work.
- (h) Transportation and utility easements, alleys, and rights-of-ways.

(3) Accessory uses:

- (a) Accessory uses and buildings that are incidental to the principal use shall be allowed.
- (b) Detached Garages.
- (c) Transportation and utility easements, alleys and rights-of-way.
- (d) Utility/storage structures for storage which are less than 120 sq. ft. in area may be permitted without a permit and/or being placed on a foundation.
- (e) Signs as regulated in Chapter 154.
- (f) Small agricultural gardens (Less than 500 sq. ft.)
- (e) In home daycare when licensed by the State of South Dakota.

(4) Uses permitted on review:

The governing body in accordance with provisions contained in City Ordinances may permit the following uses:

- (a) Boardinghouses.
- (b) Churches and clergy residences or similar or places of worship, with accessory structures but not including missions, revivals, tents or similar structures. (For the purpose of this section, missions, revivals or similar uses shall be known as any activity which takes place outside the permanent structure which causes more traffic, noise etc. than the primary use.) This section is not intended to prohibit activities such as preschool, Sunday school, or similar activities which may take place outside the structure.
- (c) Condominiums.
- (d) Congregate residences.
- (e) Day care centers (either for children or adults), nursery schools, and kindergartens.

- (f) Home occupations, which are clearly incidental in nature and which no display except for regulated sign will be permitted on the exterior of the building being utilized in part for any purpose other described above.
- (g) Multi-family dwellings.
- (h) Nursing homes and residential health care facilities.
- (i) Schools and other educational buildings (public or private).
- (j) Wind energy systems.
- (k) A planned residential development as regulated in by City Ordinance.
- (l) Public parks, playgrounds, play fields, and neighborhood buildings and uses in keeping with the character and requirements of the district.
- (m) Golf courses, or country clubs, with adjoining grounds of not less than sixty (60) acres, but not including miniature courses.

(5) Uses Not Permitted:

- (a) Junkyards
- (b) Kennels
- (c) Landfills
- (d) Manufactured homes, manufacture home parks, campgrounds, RV parks.
- (e) Off premise signs
- (f) Rubble sites
- (g) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- (h) No temporary merchants are permitted.
- (i) No temporary structures in association with temporary merchants shall be permitted in this district.
- (j) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities.
- (k) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for onsite storage
- (l) Recreational Vehicles
- (j) Adult Oriented Businesses.

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

(6) Minimum lot size: The minimum lot size for this District shall be 7,000 square feet unless the lot is not served by city water or sanitary sewer services, in which case the minimum lot size shall be one acre.

(7) Minimum lot frontage: The minimum lot frontage for this District shall be sixty (60') feet.

(8) Minimum setbacks:

- (a) The minimum **front yard** setback for this district shall be twenty-five (25'-0") feet. Detached accessory buildings shall have a front setback of thirty-five (35'-0") feet.
- (b) The minimum **side yard** setback for this district shall be ten (10'-0") feet.
- (c) An exception to the minimum side yard setback shall be allowed in the case of condominiums and two-family or town house dwellings. This exception shall allow a zero (0') side yard setback.
- (d) **Exterior side yards on corner lots:** All lots which have side yard abutting a street shall have a minimum yard setback of not less than eighteen (18'-0") feet from the property line.
- (e) The minimum **rear yard** setback for this District shall be 25 feet. Accessory buildings shall have a rear setback often feet. Detached accessory structures and garages may be located no closer than ten (10'-0") feet from the rear property line.

Exception: Detached Accessory structures less than 120 square feet, may be place no closer than five (5") from the rear lot line.

(9) Maximum building ratio. The maximum building ratio for this District shall be 40%.

(10) Maximum structure height. The maximum structure height for this district shall be twenty (28'-0") feet to the eave or two and one-half (2 ½) stories. The maximum accessory structure sidewall height shall be twelve (12) feet to eave.

(11) Maximum density. There shall be a maximum density of six (6) homes per acre.

Exception: When approved by the Planning Commission, Muilt-family residence under "Variance" there shall be no maximum density required.

(12) Temporary Structures: Temporary canopies, tents, awnings, etc. may be set up on temporary basis, but in no case shall they be utilized on a permanent basis for storage of motor vehicles.

- (a) All temporary structures may not be erected for a period of more than three (3) days unless otherwise approved by the governing body.

(13) Off Street Parking:

A minimum of one 20' x 20' hard surface off-street parking area must be provided for each single family unit. All drives used for the parking of motor vehicles shall be hard surfaced. (See Chapter 153.102 Section (AB) for additional requirements)

(14) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1) foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

(15) Landscaping: Landscaping shall be provided in quality and quantities as described in Chapter 156.**(16) Townhome Regulations Within GR-2:** The following regulations shall apply to any lot containing townhomes.**(a) Area Regulations:**

- (i) **Front yard:** All lots shall have a minimum of not less than twenty-five (25'-0") feet from the front property line to the front of the structure.
- (ii) **Side yard:** Interior lots may be zero (0') feet when the buildings are adjoined, however, when the buildings are not adjoined, all interior lots shall have a minimum of not less than ten (10'-0") feet from the side property line to the structure. Structures which are two (2) or more stories in height or have an eave height of more than eighteen (18) feet above finished grade shall have one (1'-0") foot of side yard for each two (2) feet of eave height above finished grade, but in no case less than 10'-0".
- (iii) **Exterior side yards on corner lots:** All lots which have a side yard abutting a street shall have a minimum side yard setback of not less than eighteen (18'-0") feet from the property line to the structure.
- (iv) **Rear yard:** All lots shall have a minimum rear yard of not less than twenty-five (25'-0") feet from the property line to the primary residential structure. Detached

accessory structures and garages may be located no closer than ten (10'-0") feet from the rear property line.

Exception: Detached Accessory structures less than 120 square feet, may be placed no closer than five (5") from the rear lot line.

- (v) **Lot width:** All lots shall have a minimum lot width of not less than fifty (50'-0") feet.
- (vi) **Lot area:** All lots shall have a minimum lot area of not less than 3500 sq. ft.
- (vii) **Maximum lot coverage:** All lots shall not have more than 45% of its total lot area covered by permanent structures.
- (viii) **Height regulations:** No structure shall exceed two and one-half (2 ½) stories twenty-eight (28'-0") feet in height to the eave.

(b) Off Street Parking:

A minimum of one 20' x 20' hard surface off-street parking area must be provided for each single family unit. All drives used for the parking of motor vehicles shall be hard surfaced. (See Chapter 153.102 Section (AB) for additional requirements)

(c) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1'-0") feet above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

(F) MIXED USE RESIDENTIAL, (GR-3) (HIGH DENSITY DISTRICT):

(1) General description:

This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residence in areas appropriate by location and character for the occupancy of high-density, multi-family dwellings. One of the important purposes of this district is to create adequate standards for

residential development in order to prevent overcrowding and unhealthy housing conditions.

No temporary merchants are permitted.

No temporary structures associated with temporary merchants may be permitted in this district.

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

(2) Permitted Uses:

- (a) Any use permitted, or permitted on review in GR-1 & GR-2 districts.
- (b) High density apartment buildings and/or complexes.
- (c) Group homes, congregate housing complexes.

(3) Uses Permitted on Review:

- (a) Buildings which are constructed as an accessory use to the complex such as an office, laundry, storage, recreation or community building, etc.
- (b) Home occupations.
- (c) Neighborhood retail stores and professional offices not exceeding 2,000 square feet in area. (Example: Convenience Store, Barber Shop, Insurance Sales, etc.)

(4) Uses Not Permitted:

- (a) Junkyards
- (b) Kennels
- (c) Landfills
- (d) Manufactured/mobile homes, manufacture/mobile home parks, campgrounds, RV parks.
- (e) Off premise signs
- (f) Rubble sites
- (g) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- (h) No temporary merchants are permitted.
- (i) No temporary structures in association with temporary merchants shall be permitted in this district.
- (j) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities
- (k) Recreational Vehicles
- (l) Adult Oriented Businesses

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

- (5) **Minimum Lot Size:** Shall have a minimum area of not less than 10,000 sq. ft. or not less than 2,000 sq. ft. per dwelling unit in relation to apartment buildings, whichever is greater.
- (6) **Minimum Lot Frontage:** The minimum frontage for this district shall be no less than one-hundred (100') feet.
- (7) **Minimum Lot Setbacks:**
- (a) The minimum **front yard** setback for this district shall be not less than twenty-five (25'-0") feet from property line.
 - (b) On all interior lots with single story structures shall have a minimum **interior side yard** of not less than ten (10') feet from property lines. Any structure two (2) or more stories or having an eave height of eighteen (18'-0") feet or more shall have one (1'-0") foot of side yard for each two (2) feet of eave height above finished grade.
 - (c) An exception to the minimum **interior side yard** setback shall be allowed in the case of condominiums and two-family or town house dwellings. This exception shall allow a zero side yard setback.
 - (d) **Exterior side yards on corner lots:** All lots which have side yard abutting a street or public Right-of-Way shall have a minimum yard setback of not less than eighteen (18'-0") feet from the property line.
 - (e) The minimum **rear yard** All lots shall have a minimum rear yard of not less than twenty-five (25'-0") feet from property lines. Detached accessory structures and garages may be located no closer than ten (10'-0") feet from the rear property line.

Exception: Detached Accessory structures less than 120 square feet, may be place no closer than five (5") from the rear lot line.

- (8) **Maximum Building Ratio:** The maximum building ration for this district shall be 45%.
- (9) **Maximum Structure Height:** The maximum structure height shall not exceed forty-five (45') feet to the underside of the eave.

Accessory structures shall not exceed one (1) story or eighteen (18') feet to the underside of the eave.

(10) Maximum Density: There shall be no maximum density standard for this district.

(11) Off Street Parking: A minimum of one 20' x 20' hard surface parking must be provided for each dwelling unit. (See Chapter 153.102 Section (AB) for additional requirements)

All drives used for parking or movement of motor vehicles shall be hard surfaced.

(12) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1') foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

(14) Landscaping:

When there is a structure constructed with four (4) or more dwelling units landscaping shall be required as per Chapter 156.

(15) Townhouse Regulations:

Townhouse development standards related to this district shall be the same as found in GR-2 zoning district.

(G) GR-4 RESIDENTIAL - MANUFACTURED SINGLE FAMILY-HOMES, (High Density)

(1) General description:

This district is to provide for high density residential development. The principal uses shall be manufactured homes as defined in this ordinance or combination of stick built and manufactured homes placed on foundations. Those manufactured homes, which are mobile in nature shall have approved skirting and be functionally compatible with high intensive residential uses.

This district is primarily designed for the placement of individual manufactured homes which are not less than **Sixteen (16) feet in width**, on individual platted lots or parcels of land, with not more than one manufactured home per plated parcel. In no case shall there be

more than six (6) lots per acre or no lot less than 7,000 square feet per lot.

Approved skirting shall consist of a solid boarder of wood, PVC plastic or similar material, which is weather resistive and is installed around the perimeter of the unit from the bottom the mobile home to four (4) inches below grade, except for entry points, creating a weather tight barrier. Approved skirting must be installed before the mobile home may be occupied.

No manufactured home shall be occupied unless supported on a concrete foundation that is installed as recommended by the manufacturer.

No temporary merchant's may be permitted in this district, nor shall any temporary structure which is in conjunction with said merchant.

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

(2) Permitted Uses:

- a. Detached single-family manufactured homes, which may be mobile in nature, with approved skirting and are no less than sixteen (16) feet in width.
- b. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of the construction work.
- c. Accessory uses and buildings as regulated by City Ordinance, provided such uses are incidental to the principal use and do not commonly include any commercial activity. Any accessory building shall be located on same lot with the principal use and may not be located closer than ten (10') feet to the principal use.
- d. Transportation and utility easements, alleys and R.O.W's.
- e. Signs as regulated in Chapter 154 of City ordinances.
- f. In home daycare for children, licensed by the State of South Dakota.

(3) Uses Permitted on Review:

- a. Accessory buildings such as laundry buildings, recreational buildings, etc.
- b. Home occupations.
- c. Public parks, playgrounds, play fields, and neighborhood facilities.
- d. Group homes for children or adults, or adult daycare.

(4) Uses Not Permitted:

- a. Junkyards
- b. Kennels
- c. Landfills
- d. Manufactured homes, manufacture home parks, campgrounds, RV parks.
- e. Off premise signs
- f. Rubble sites
- g. Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- h. No temporary merchants are permitted.
- i. No temporary structures in association with temporary merchants shall be permitted in this district
- j. Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities
- k. Adult Oriented Business

Exception: Temporary structures, which are in conjunction with an private event of three (3) days or less may be permitted.

(5) Minimum Lot Size: Shall have a minimum area of not less than 7,000 sq. ft. and serviced by City water and sanitary sewer.

(6) Minimum Lot Frontage (width): All lots used in this zoning designation shall have a minimum lot width of not less than seventy-five (75') feet.

(7) Minimum Setbacks:

- (a) The minimum **Front yard** setback for the district shall be not less than twenty-five (25'- 0") feet from property line. Accessory structures shall be set back a minimum of thirty-five (35'-0") feet.
- (b) The minimum **Side yard** on all interior lots shall have a minimum side yard of not less than ten (10'-0") feet from property lines or no less than twenty (20'-0") feet between manufactured homes and/or structures.
- (c) **Corner lot side yard:** All lots which have side yards abutting a street shall have a minimum yard setback of not less than eighteen (18'-0") feet from the property line.
- (d) The minimum **Rear yard** shall have a minimum rear yard of not less than twenty-five (25'-0") feet from property lines. Detached

accessory structures and garages may be located no closer than ten (10') feet from the rear property line.

Exception: Detached Accessory structures less than 120 square feet, may be placed no closer than five (5') feet from the rear lot line.

- (8) Maximum Building Coverage Ratio:** All lots shall not have more than 45% of its total area covered by permanent structures.
- (9) Height Regulations:** Accessory structures shall not exceed one (1) story or eighteen (18') feet in height to eave.
- (10) Off Street Parking:** A minimum of one 20' x 20' hard surface parking must be provided for each single family home where on street parking is provided. In areas where on street parking is not permitted, and additional 10' X 20' hard surface space shall be provided. (See Chapter 153.102 Section (AB) for additional requirements)

All drives intended for vehicle movement shall be hard surfaced.

(11) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1'-0") foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

All mobile homes must be anchored as per the requirements of the city's flood ordinance, manufacturers recommendations or as per FEMA guidelines for flood plain management whichever is more restrictive.

(H) General Commercial District (GC):

- (1) General description:** This district is established to regulate the commercial areas of the city.

This district is established for personal and business services including general retail sales and merchandise.

- (2) Definitions:** (For the purpose of this zoning district (GC) the following definitions shall be applicable)
Dwelling: Any building or portion thereof that contains not more than two dwelling units.

Dwelling Unit: Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation; as required by the building code. A single dwelling unit shall not be occupied by more than one family or ten (10) unrelated individuals.

Congregate Sleeping Rooms: Any building or portion thereof containing individual sleeping rooms for temporary occupancy with a centralized eating, cooking, and sanitation facilities. Said sleeping facilities shall not accommodate more than ten (10) individuals.

(3) Permitted uses:

- (a) Retail establishments, including incidental manufacturing of goods for retail sales on the premises, providing there are five or fewer employees engaged in the manufacturing of the product or less than 10% of the total building are.
- (b) Drinking and/or dining establishments, to include drive-in type or fast food establishments are permitted.
- (c) Banks, credit unions, and financial service centers.
- (d) Churches.
- (e) Medical offices, clinics and personal health services.
- (f) Convenience goods and personal service operations. (Baber shops, beauty salons, spas, Laundromat, etc.)
- (g) Commercial recreation and amusement structures such as and theaters, bowling alleys, poolroom's, and similar uses.
- (h) Hotels, motels and similar establishments.
- (i) Automobile, machinery, trailer, and vehicle leasing, rental, or sales.
- (j) Professional and general office buildings.
- (l) Charitable, religious, educational and philanthropic institutions including associated residential quarters and similar uses..
- (m) Schools, day schools, and kindergartens public or private.
- (n) Hospitals, convalescent, maternity, or nursing homes.
- (o) Small animal clinics.

(4) Accessory uses:

- (a) Incidental uses and buildings normally associated with the above permitted uses, to include outdoor individual unit storage, but excluding outdoor bulk storage.
- (b) Temporary retail business that operate and are licensed as transient or temporary merchants.

(1) The following items, are applicable to only the above temporary business, shall be strictly enforced.

- (i) In no case shall any canopies, signs, overhangs, anchors, guide wires or any item similar in nature protrude into or over any public R.O.W..
- (ii) Merchants which are temporary in nature shall not be permitted to erect a tent, canopy, shelter, appendage or similar structure which is closer than five (5'-0") feet to the property line which abuts a public right of way.
- (iii) Exception: garbage cans, planters, temporary signs, which are approved by city council, and/or canopies, which are approved by city council.
- (ix) The Chief of Police, Code Enforcement staff or their designee shall have the power to order the stand or any portion thereof, which is violation of this section immediately removed.

(5) Uses permitted on review.

- (a) Adult oriented businesses.
- (a) Self-storage facilities.
- (b) Automobile repair service, automobile service station, auto body, and auto restoration centers.
- (c) Clubhouses, private clubs, lodges, and private lodges.
- (d) Commercial parking lots and garages.
- (e) Communications towers.
- (f) Public utility structures as required by and compatible with a commercial district.
- (g) Radio or television broadcasting stations.
- (h) Intergraded Residential dwellings associated with commercial uses.
- (i) Telecommunication facilities.
- (j) Wind energy systems.

(6) Uses Not Permitted:

- (a) Under no circumstances shall factory-built homes or manufactured home parks be permitted in this District. Existing factory-built homes and manufactured home parks shall be considered non-conforming uses may be grandfathered, if in existing when this chapter is adopted.
- (b) Junkyards
- (c) Kennels
- (d) Landfills
- (e) Rubble sites
- (f) Manufactured homes, manufacture home parks, campgrounds, RV parks.
- (h) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- (i) Warehouses

- (j) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities
- (k) Commercial gathering places for smoking such as Hooka Lounges, Vape Lounges or similar gather establishments.

(7) Minimum lot size: The minimum lot size for this district shall be 10,000 square feet.

(8) Minimum lot frontage: The minimum lot frontage for this district shall be seventy-five (75') feet.

(9) Minimum setbacks:

- (a) The minimum **front yard** setback for this district shall be twenty-five (25') feet.
- (b) The minimum **side yard** setback for this district may be zero (0') feet unless a side yard abuts a residential district, when the minimum side yard setback shall be twenty-five (25') feet.
- (c) **Side yard** abutting a street, the side setback shall not be less than twenty-five (25) feet.
- (d) The minimum **rear yard** setback for this district may be zero (0') feet. Where a commercial building is to be serviced from the rear; there shall be provided an private alleyway, service court, rear yard or combination thereof of not less than thirty (30') feet in depth, in excess of any public Right-of-Way. Exception: Setback shall be thirty (30') minimum when abutting a residential district.

(10) Maximum building coverage ratio: The maximum building coverage ratio for this District shall be 90%.

(11) Maximum structure height: The maximum structure height for this district shall be four and one-half (4 ½) stories or fifty (50') feet to the underside of the eave.

(12) Maximum density: There shall be no more than four structures per acre in this district. Otherwise no density requirements are required.

(11) Off Street Parking:

As regulated in Chapter 153.102 Section (AB). All areas utilized for vehicle travel and/or parking shall be hard surfaced material.

(12) Residential Dwelling Units.

(a) Scope: For the purpose of General Commercial Zoning, dwellings, dwelling units and congregate sleeping rooms meeting the following guidelines may be permitted as uses permitted upon review.

(b) Regulations:

- (i) All residential dwelling units and or sleeping rooms in a commercial business, shall be maintained either above or below the ground floor of a authorized business within this zoning district.
- (ii) On all floors of buildings containing dwelling units, each floor shall be required to have a minimum of two egress routes. Each sleeping room within a dwelling unit shall also be required to have a minimum of one egress window. All dwellings units shall comply with all other requirements of the International Building Code and contain a central fire alarm system and a fire suppression sprinkler system.
- (iii) In buildings containing congregate sleeping rooms for temporary use, all floors in said building shall have two means of egress. Although individual sleeping rooms will not be required to have an egress window; and access door shall exit into a protected hallway leading to an egress or exit point.
- (iv) Buildings containing congregate sleeping rooms for temporary use shall also be required to install a central fire alarm system with smoke detectors in each room and in hallways. Pull stations for the fire alarm system shall also be installed on each floor and at exit points within the structure, and a fully operation fire suppression system throughout the structure.

(15) Landscaping:

Landscaping shall be provided in quality and quantities as described in Chapter 156.

(14) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1-0") foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

All mobile homes must be anchored as per the requirements of the city's flood ordinance, manufactures recommendations or as per FEMA guidelines for flood plain management whichever is more restrictive.

(I) HS-1 - HIGHWAY SERVICE (HS):

(1) General Description:

This district is established for the accommodation of those herein specified retail and business service activities that serve persons in automobiles traveling on streets and highways, and typically may be located along major street intersections or highway interchanges. These businesses generate a considerable volume of vehicular traffic originating within the community or traveling into the community.

Utility Lot: Any platted lot used exclusively for the placement of utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the City Council. Such lots are only intended to be improved with the utility and any structures needed in conjunction with the utility.

(2) PERMITTED USES:

- (a) All those permitted in General Commercial District (GC)
- (b) Garden centers, green houses and nurseries
- (c) Service stations/convenience stores.
- (d) Automotive sales, service and repair facilities.
- (e) Wholesale and distribution centers, such as lumberyards, contractor supply agencies, and similar uses.
- (f) Temporary or transient businesses.
- (g) Building material sales.
- (h) New & used car sales lots (including motorcycle sales & service).
- (i) Large retail outlets or mercantile stores.
- (j) Self-Storage Units
- (k) Outdoor recreational uses which are similar in nature and are not harmful to the existing surrounding uses
- (l) Retail establishments, including incidental manufacturing of goods for retail sales on the premises, providing there are twenty or fewer employees engaged in the manufacturing of the product or less than 50% of the total building are.
- (m) Factory built home sales and service establishments.
- (N) Adult Oriented Businesses

(3) Accessory Uses:

- (a) Outdoor advertising.
- (b) Temporary structures incidental to the primary property use.

- (c) Utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the Planning Commission and City Council under conditional use.

(4) Uses Permitted on Review:

- a. Open storage uses which shall comply with the following provisions:
1. All open bulk storage or display of merchandise, material or equipment shall be screened by adequate ornamental fencing at the side and rear of the lot on which said open storage or display occurs; provided, that screening shall be seven (7') feet in height.
 2. All of the lot used for parking of vehicles, for the storage and display of merchandise and all driveways used for vehicle ingress and egress shall be constructed of hard surface materials such as concrete or asphalt and maintained in good conditions.
 3. Outdoor lighting, shall be provided, shall have an arrangement of reflectors and an intensity of lighting, which will not interfere with adjacent land uses, or the use of adjacent streets, and shall not be of flashing or intermittent type.
- b. Any other use similar in character to those enumerated above and which in the opinion of the common council will not be injurious to the district.
- c. Dwellings and/or Congregate residences
- d. Utility Lots subjected to the following requirements:
1. Platted access not less than sixteen (16') feet in width which may be either dedicated public right of way or utility access easement.
 2. Each lot shall have a width abutting the street of not less than fifty (50') feet.
 3. There shall be a lot area of not less than five thousand (5,000) square feet.
 4. Buildings and or structures shall not cover more than seventy-five percent (75%) of the total lot area.

For the purpose of Highway Service Zoning the following definitions and regulations shall apply:

(5) Definitions:

Dwelling: is any building or portion thereof that contains not more than two dwelling units.

Dwelling Unit: is any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the building code. A single dwelling unit shall not be occupied by more than one family or ten (10) unrelated persons.

Congregate Sleeping Rooms: is any building or portion thereof containing individual sleeping rooms for temporary occupancy with a centralized eating, cooking, and sanitation facilities. Said sleeping facilities shall not accommodate more than 10 persons.

Scope:

For the purpose of Highway Service Zoning, dwellings, dwelling units and congregate sleeping rooms meeting the following guidelines may be permitted as uses permitted upon review, and may be subject to other requirements in City ordinance.

Regulations:

On all floors of buildings containing dwelling units, each floor shall be required to have a minimum of two egress routes. Each sleeping room within a dwelling unit shall also be required to have a minimum of one egress window. All dwellings units shall comply with all other requirements of the International Building Code.

In buildings containing congregate sleeping rooms for temporary use, all floors in said building shall have two means of egress. Although individual sleeping rooms will not be required to have an egress window, one access door shall exit into a two (2) hour protected hallway leading to an egress or exit point. Buildings containing congregate sleeping rooms for temporary use shall also be required to install a central fire alarm system with smoke detectors in each room and in hallways. Pull stations for the fire alarm system shall also be installed on each floor and at exit points within the structure. The structure shall also have a fully operational fire suppression system. Said sleeping rooms may be occupied by only those individuals who are employed by the business occupying the structure. Said sleeping rooms may not be rented to or utilized by the general public.

The above listed requirements will be enforced in addition to those requirements dictated by the adopted codes.

The property owner shall be required to comply with all building department requirements prior to obtaining a certificate of occupancy from the Community Planning and Development Services Office or there authorized designee.

(6) Uses Not Permitted:

- (a) Junkyards

- (b) Kennels
- (c) Landfills
- (d) Rubble sites
- (e) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- (f) Chicken or turkey farms, concentrated animal feeding operations, dairies, agribusiness activities, or similar uses.
- (g) Hookah Lounges or similar business operations.

(7) Minimum Lot Size: The minimum lot size for this district shall be no less than 10,000 square feet in area.

(8) Minimum Lot Frontage: The minimum lot frontage for the district shall be one-hundred (100') feet.

(9) Minimum Setbacks:

- (a) The minimum **front yard** setback for this district shall be no less than thirty-five (35') feet.
- (b) The minimum **side yard** setback for this district shall be no less than fifteen (15') feet unless a side yard abuts a residential area, then the minimum setback will be no less than twenty-five (25') feet. When the side yard a residential zoned area, there shall be maintained a minimum six (6') feet high opaque or ornamental fence or barrier.
- (c) The minimum **side yard** setback for this district where a side yard abuts a street, shall be no less than thirty (30') feet.
- (d) The minimum **rear yard** setback for this district shall be no less than twenty (20') feet. Where a commercial building is serviced from the rear; there shall be provided an alleyway, service court, rear yard or combination thereof of not less than thirty-five (35') feet from the rear property line.

(10) Maximum Building Coverage Ratio: Permanent main and accessory buildings shall cover not more than seventy-five (75%) of the total lot area.

(11) Maximum Structure Height: The maximum structure height for this district shall be four and one-half (4 ½) stories or sixty (60') feet, to the underside of the eave.

(12) Maximum Density: There shall be no density requirements for this district.

(13) Temporary Structures:

- a. Temporary structures shall not be placed closer than five (5'-0") feet of any property line abutting a public R.O.W.

- b. No appendage such as overhangs, canopies, and supports, guide wires, poles, posts, stakes, signs, etc. May be placed closer than five (5'-0") feet of any R.O.W.
- c. The chief of police or Planning Director or their designee's shall have the power to order the stand or any portion of the stand which is within five (5'-0") feet of any R.O.W removed immediately.
- d. Sight triangles on corners shall be maintained without exception.

(14) Off Street Parking:

As regulated in Chapter 153.102 Section (AB).

All areas utilized for vehicle travel or parking shall be of hard surface materials.

(15) Landscaping:

Landscaping shall be provided in quality and quantities as described in Chapter 156.

(16) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1'-0") foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

(L) General Light Industrial District (GLID).

- (1) General description:** This industrial district is established to provide areas which the principal use of land is for manufacturing and assembly plants, processing, storage, large warehousing, wholesaling and distribution in which operations are conducted so that noise, odor, dust and glare are controlled.

No temporary structures may be permitted.

Utility Lot: Any platted lot used exclusively for the placement of utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the City Council. Such lots are only intended to be improved with the utility and any structures needed in conjunction with the utility.

(2) Permitted uses:

- (a) All uses permitted in any Commercial District and Highway Service (HS) district.
- (b) Large scale contractor's equipment storage yards.
- (c) Building material wholesale, storage and distribution centers.
- (d) Public utility service yards of electrical receiving or transforming stations.
- (e) Freighting or trucking yards or terminals.
- (f) Small to moderated manufacturing facilities 30,000 sq. ft. or less.
- (g) Building material display & sales.
- (h) New and used car sales.
- (i) Truck, trailer, u-haul type rental and sales.
- (j) Farm implement and machinery sales.
- (k) Motorcycle sales and repair shops.
- (l) Animal hospitals, pet shops, kennels, etc.
- (m) Service and repair garages.
- (n) Manufactured home sales.
- (o) Wholesale warehouses for the distribution and sale of goods.
- (p) Large retail outlets or mercantile businesses which require large parking areas in conjunction with larger storage buildings.
- (q) The following uses when conducted within a completely enclosed building:
 - a. The manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: aluminum; bone; cellophane; canvas; cloth; cork; feathers; felt; fiber; fur; glass; precious or semi-precious metals or stones; shell; rubber; textiles; tin; iron; steel; clay and wood.
 - b. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
 - c. The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and the like.
 - d. Blacksmith and machine shop.
- (h) Small to mid-sized distilleries not exceeding 30,000 square feet.

(3) Accessory uses: Incidental uses and buildings normally associated with the above permitted uses.

(4) Uses permitted on review.

- (a) Research laboratories.
- (b) Tank farms.
- (c) Telecommunications facilities.
- (d) Wind energy systems.

(5) Uses Not Permitted:

- (a) Junkyards
- (b) Kennels
- (c) Landfills
- (d) Rubble sites
- (e) Use of factory-built homes, semi-trailers, shipping containers, or vehicles for on-site storage for other than limited to temporary uses related to construction projects.
- (f) Manufactured homes, Manufactured home Parks, Campgrounds, RV Parks or similar uses.
- (g) Chicken or turkey farms, concentrated animal feeding operations, dairies, and agribusiness activities.

(6) Minimum lot size: The minimum lot size for this district shall be one acre (43,560) square feet..

(7) Minimum lot frontage. The minimum lot frontage for this district shall be one-hundred-fifty (150') feet.

(8) Minimum setbacks:

- (a) The minimum **front yard** setback for this district shall be thirty (30') feet.
- (b) The minimum **side yard** setback for this district shall be twenty (20') feet.
- (c) On any corner lot with a side yard abutting a street the **side yard** shall be no less than thirty (30') feet.
- (e) The minimum **rear yard** setback for this district shall be twenty (20') feet.

(9) Maximum building coverage ratio: The maximum building coverage ratio for this District shall be 80%.

(10) Maximum structure height: The maximum structure height for this District shall be thirty-five (35') feet to eave.

(11) Maximum density. Not applicable.

(12) Off Street Parking:

As regulated in Chapter 153.102 Section (AB). All areas utilized for vehicle travel and/or parking shall be hard surfaced material.

(13) Landscaping:

Landscaping will be required in Industrial Zoning District as per Chapter 156.

(14) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1-0") foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

(15) CONDITIONAL USE PERMIT (*Industrial Zoning Specific*):**(a) Conditional Use Defined**

In relation to this zoning district (General Industrial), a "conditional use," as defined, any use not listed as a primary permitted use of the structure in the General Industrial District. To be permitted, the applicant must show such mixed use, that because of its characteristics and location with reference to surroundings, street or highway width, traffic generation or other demands on public services, requires special consideration relative to placement at specific locations in the zone to insure proper integration with other existing or permitted uses in the same zone or zones can be integrated safely. Such use, depending on the characteristics of the individual site and location within the zone where proposed, may be approved, and if approved, shall be approved with conditions to insure proper integration with other existing or permitted uses in the same zone or zones, and that the proposed use is a significant and integral part of the proposed use of the property for the following 12 months, or such use may be denied.

(b) Application - - Filing.

Any person desiring a conditional use permit provided for in this chapter may file an application with the Planning Director, except that no application shall be filed or accepted if final action has been taken within one year prior thereto on an application requesting the same, or substantially the same permit.

(c) Application - - Information required.

An application for a conditional use permit shall contain the following information:

Name and address of the applicant and of all persons owning any or all of the property proposed to be used;

Clear evidence that the applicant is the owner of the premises involved, or has written permission from the owner or owners that they consent to the applicant making such application;

- Location of subject property (address or vicinity);
- Legal description of the property involved;
- The nature of the proposed use, indicating the primary permitted business use, and purpose for which such building, structure or improvement is to be erected, constructed, or as proposed to be altered, enlarged, moved, occupied or used;
- Indicate the nature, condition and development of the property for which the conditional use permit is being applied for and the nature, condition and development of the adjacent uses, buildings and structures;
- Provide a site plan drawn to a scale satisfactory to and provide at least 5 copies indicating the area and dimensions of the site or location of the proposed use.

The location and dimensions of all structures, yards, walls, fences, parking and loading facilities, landscaping, and other development features:

- Indicate the dimensions and state of improvement of the adjoining streets and highways providing access to the proposed site of the requested use;
- Indicate all other permits and approvals applied for and/or secured in compliance with the provisions of other applicable ordinances;
- A list certified to be correct by affidavit or by a statement under penalty of perjury of the names and addresses of all persons who are shown on the latest available assessment roll of Meade/Pennington County's as owners of the subject parcel of land and as owning property within a distance of 200 feet from the exterior boundaries of the parcel of land to be occupied by the use. One copy of said map shall indicate where such ownerships are located,
- Proof satisfactory to the Public Works Director that water will be available in quantities and pressures required by the Ordinance and/or Plumbing Code, or the director may accept as such proof a certificate from the person who is to supply water that he can supply water as required City Regulations.

Such other information as the director and/or the Planning & Zoning Office may require.

The accuracy of all information, maps and lists submitted shall be the responsibility of the applicant.

(d) Application--Burden of proof.

In addition to the information required in the application the applicant shall substantiate the following facts:

- a) That the requested use at the location and in the proposed structure will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area/
- b) Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site.
- c) Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- d) That the proposed site and structure is adequate in size and shape to accommodate the yards, fences, parking and loading facilities, landscaping and other development features required in order to integrate said use with the uses in the surrounding area.
- e) That the proposed site is adequately served by highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate.
- f) That the proposed site is adequately served by other public or private service facilities as are required.

(e) Application--Fee and deposit.

When an application is filed, it shall be accompanied by the filing fee and deposit as required.

(f) Application--Denial for lack of information.

An application for a conditional use permit may be denied without hearing if such application does not contain the information required this chapter or the applicant may request to file an amended application.

(g) Application--Public hearing required--Exception.

In all cases where an application for a conditional use permit is filed in proper form, the public hearing shall be held pursuant to the procedure herein unless the application is withdrawn.

(h) Application--Grant or denial--Findings and decision at public hearing.

An application for a conditional use permit may be approved where the information submitted by the applicant and/or presented at public hearing substantiates the following findings:

That the proposed use will be consistent with the adopted general plan for the area.

That the requested use at the location proposed will not:

- Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area.
- Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site.
- Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- That the proposed use is significant and integral part of the planned primary use of the structure for the next twelve months.
- That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area.
- That the proposed site is adequately served:

By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; and

By other public or private utility service facilities as are required by City Ordinance and/or conditions placed under a CUP.

The application shall be denied where the information submitted by the applicant and/or presented at public hearing fails to substantiate all such findings that are required by this chapter.

(i) Permit--Additional conditions imposed when.

In approving an application for a conditional use permit, the decision shall state the conditions as necessary to insure that such use will be in accord with the findings.

Conditions may involve any pertinent-factors affecting the establishment, operation and maintenance of the requested use, including, but not limited to:

- Special yards, open spaces and buffer areas;
- Fences and walls;
- Parking facilities, including vehicular ingress and egress and the surfacing or parking areas and driveways to specified standards;

- Street and highway dedications and improvements, including sidewalks, curbs and gutters;
- Water supply and fire protection in accordance with the provisions of this ordinance;
- Landscaping and maintenance of grounds;
- Regulation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation;
- Regulation of operating hours for activities affecting normal neighborhood schedules and functions;
- Regulation of signs, including outdoor advertising as per the Sign Ordinance;
- A specified validation period limiting the time in which development may begin;
- Provisions for a bond or other surety that the proposed conditional use will be removed on or before a specified date;
- A site plan indicating all details and data as prescribed by the Planning & Zoning Office.

Such other conditions as will make possible the development of the proposed conditional use in an orderly and efficient manner and in general accord with all elements of the general plan and the intent and purpose of City Ordinance

(j) All zone regulations apply unless permit is granted.

Unless specifically modified by a conditional use permit, all regulations prescribed in the zone in which such conditional use permit is granted shall apply. Said permit shall have a minimum review period of two (2) years.

(k) Expiration date of unused permits.

A permit which is not used within the time specified in such permit, or, if no time is specified, within two years after the granting of the permit, becomes null, void and of no effect at all:

The permit issued may be extended for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. In the case of a nonprofit corporation organized to provide low-income housing for the poor or elderly, there may be an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension;

That, in the case of a conditional use permit filed and heard concurrently with a land division, the limits and extensions allowed shall be concurrent and consistent with those of the land division.

A conditional use permit shall be considered used, within the intent of this section, when construction or other development authorized by such permit has commenced that would be prohibited in the zone if no permit had been granted.

(I) Expiration following cessation of use.

A conditional use permit granted by the Council shall automatically cease to be of any force and effect if the use for which such conditional use permit was granted has ceased or has been suspended for a continuous period of 12 months.

(L) HEAVY INDUSTRIAL DISTRICT (HID)

(1) General Description

To establish areas for necessary industrial and related uses of such a nature that they require isolation from many other kinds of land uses, and to make provision for commercial uses which are necessary to service the immediate needs of people in their areas.

(2) Property and buildings may include, but are not limited to the following purposes:

- (a) Manufacturing, requiring yard storage and fabrication.
- (b) Wholesaling, requiring yard storage and assembly.
- (c) Warehousing, requiring yard storage.
- (d) Bulk storage.
- (e) Foundries.
- (f) General repair and service of trucks and construction equipment.
- (g) Railroad freight terminal and repair shop.
- (h) Power plants.
- (i) Stockyards, feeding pens, and auction houses for sale of livestock.
- (j) Tannery or curing or storage of raw hides.
- (k) Sawmills.
- (l) Rock, sand, gravel, or earth excavation, crushing or distribution.
- (m) Slaughter of animals, including poultry killing or dressing.
- (n) Processing of junk, waste, discarded or salvaged materials, machinery or equipment, including automobile wrecking or dismantling.
- (o) Outdoor advertising and community signs (as regulated in Chapter 154 Signs, Billboards and Other Advertising Structures).
- (p) Accessory uses and structures on the same premises which are clearly incidental to the permitted use, but shall not including sleeping facilities required by a caretaker or night watchman.
- (q) Concrete batch plant, transit mix plant, or asphalt plant.
- (r) Concrete block, precast concrete and prestressed concrete fabrication and storage.
- (s) Structural and reinforcing steel fabrication, welding and storage.

- (t) A retail or service use only when it directly serves or is incidental to the needs of the industrial plants and the employees thereof.
 - (u) Grain elevators.
 - (v) Livestock Auction House and yards
- (3) Accessory Uses:** Incidental uses and buildings normally associated with the above permitted uses.
- (4) Conditional Uses:**
- 1. Wind Energy Systems/Fields
- (5) Prohibited Uses:**
- 1. Disposal and/or storage of Nuclear, Environmental or Biological Waste.
 - 2. The incineration of Hazardous, Biological or Medical Waste.
 - 3. Rubble, junkyards or waste sites.
- (6) Minimum lot size:** The minimum lot size for this district shall be one acre (43,560) square feet..
- (7) Minimum lot frontage.** The minimum lot frontage for this district shall be one-hundred-fifty (150') feet.
- (8) Minimum setbacks:**
- (a) The minimum **front yard** setback for this district shall be thirty (30') feet.
 - (b) The minimum **side yard** setback for this district shall be twenty (20') feet.
 - (c) Any corner lot with a **side yard** abutting a street shall have a minimum thirty (30') feet side setback.
 - (f) The minimum **rear yard** setback for this district shall be twenty (20') feet.
- (9) Maximum building coverage ratio:** The maximum building coverage ratio for this District shall be 80%.
- (10) Maximum structure height:** The maximum structure height for this district shall be thirty-five (35') feet.
- (11) Maximum density.** Not applicable.
- (12) Off Street Parking:**

As regulated in Chapter 153.102 Section (AB). All areas utilized for vehicle

travel and/or parking shall be hard surfaced material.

(13) Landscaping:

Landscaping will be required in Industrial Zoning District as per Title XV, Chapter 156.

(14) Flood Plain Requirements:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least one (1-0") foot above the flood plain elevation stated on the FIRM map.

In addition, any improvements within the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

All mobile homes must be anchored as per the requirements of the city's flood ordinance, manufacturers recommendations or as per FEMA guidelines for flood plain management whichever is more restrictive.

(15) CONDITIONAL USE PERMIT (*Industrial Zoning Specific*):

(a) Conditional Use Defined

In relation to this zoning district (General Industrial), a "conditional use," as defined, means a temporary residential use that is secondary in nature to a primary permitted use of the structure in the General Industrial District. To be permitted, the applicant must show such mix use, that because of its characteristics and location with reference to surroundings, street or highway width, traffic generation or other demands on public services, requires special consideration relative to placement at specific locations in the zone to insure proper integration with other existing or permitted uses in the same zone or zones can be integrated safely. Such use, depending on the characteristics of the individual site and location within the zone where proposed, may be approved, and if approved, shall be approved with conditions to insure proper integration with other existing or permitted uses in the same zone or zones, and that the proposed use is a significant and integral part of the proposed use of the property for the following 12 months, or such use may be denied.

(b) Application - - Filing.

Any person desiring a conditional use permit provided for in this chapter may file an application with the Planning Director, except that no application shall be filed or accepted if final action has been taken within one year prior thereto on an application requesting the same, or substantially the same permit.

(c) Application - - Information required.

An application for a conditional use permit shall contain the following information:

Name and address of the applicant and of all persons owning any or all of the property proposed to be used;

Clear evidence that the applicant is the owner of the premises involved, or has written permission from the owner or owners that they consent to the applicant making such application;

- Location of subject property (address or vicinity);
- Legal description of the property involved;
- The nature of the proposed use, indicating the primary permitted business use, and purpose for which such building, structure or improvement is to be erected, constructed, or as proposed to be altered, enlarged, moved, occupied or used;
- Indicate the nature, condition and development of the property for which the conditional use permit is being applied for and the nature, condition and development of the adjacent uses, buildings and structures;
- Provide a site plan drawn to a scale satisfactory to and provide at least 5 copies indicating the area and dimensions of the site or location of the proposed use.

The location and dimensions of all structures, yards, walls, fences, parking and loading facilities, landscaping, and other development features:

- Indicate the dimensions and state of improvement of the adjoining streets and highways providing access to the proposed site of the requested use;
- Indicate all other permits and approvals applied for and/or secured in compliance with the provisions of other applicable ordinances;
- A list certified to be correct by affidavit or by a statement under penalty of perjury of the names and addresses of all persons who are shown on the latest available assessment roll of Meade County as owners of the subject parcel of land and as owning property within a distance of 200 feet from the exterior boundaries of the parcel of land to be occupied by the use. One copy of said map shall indicate where such ownerships are located,
- Proof satisfactory to the Public Works Director that water will be available in quantities and pressures required by the Ordinance and/or Plumbing Code, or the director may accept as such proof a certificate from the person who is to supply water that he can supply water as required City Regulations.

Such other information as the director and/or the Planning & Zoning Office may require.

The accuracy of all information, maps and lists submitted shall be the responsibility of the applicant.

(d) Application--Burden of proof.

In addition to the information required in the application the applicant shall substantiate the following facts:

- a) That the requested use at the location and in the proposed structure will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area.
- b) Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site.
- c) Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- d) That the proposed site and structure is adequate in size and shape to accommodate the yards, fences, parking and loading facilities, landscaping and other development features required in order to integrate said use with the uses in the surrounding area.
- e) That the proposed site is adequately served by highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate.
- f) That the proposed site is adequately served by other public or private service facilities as are required.
- g) That at no time may any area authorize for a conditional use permit for a secondary residential use exceed 1000 square feet.
- h) The area to be used as a residential area shall meet all applicable City Ordinances, International Building Codes and State Regulations that apply.

(e) Application--Fee and deposit.

When an application is filed, it shall be accompanied by the filing fee and deposit as required.

(f) Application--Denial for lack of information.

An application for a conditional use permit may be denied without hearing if such application does not contain the information required this chapter or the applicant may request to file an amended application.

(g) Application--Public hearing required--Exception.

In all cases where an application for a conditional use permit is filed in proper form, the public hearing shall be held pursuant to the procedure herein unless the application is withdrawn.

(h) Application--Grant or denial--Findings and decision at public hearing.

An application for a conditional use permit may be approved where the information submitted by the applicant and/or presented at public hearing substantiates the following findings:

That the proposed use will be consistent with the adopted general plan for the area.

That the requested use at the location proposed will not:

- Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area.
- Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site.
- Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- That the proposed use is significant and integral part of the planned primary use of the structure for the next twelve months.
- That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- That the proposed site is adequately served:

By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; and

By other public or private service facilities as are required.

The application shall be denied where the information submitted by the applicant and/or presented at public hearing fails to substantiate all such findings that are required by this chapter.

(i) Permit--Additional conditions imposed when.

In approving an application for a conditional use permit, the decision shall state the conditions as necessary to insure that such use will be in accord with the findings.

Conditions may involve any pertinent-factors affecting the establishment, operation and maintenance of the requested use, including, but not limited to:

- Special yards, open spaces and buffer areas;
- Fences and walls;
- Parking facilities, including vehicular ingress and egress and the surfacing or parking areas and driveways to specified standards;
- Street and highway dedications and improvements, including sidewalks, curbs and gutters;
- Water supply and fire protection in accordance with the provisions of this ordinance;
- Landscaping and maintenance of grounds;
- Regulation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation;
- Regulation of operating hours for activities affecting normal neighborhood schedules and functions;
- Regulation of signs, including outdoor advertising;
- A specified validation period limiting the time in which development may begin;
- Provisions for a bond or other surety that the proposed conditional use will be removed on or before a specified date;
- A site plan indicating all details and data as prescribed by the Planning & Zoning Office.

Such other conditions as will make possible the development of the proposed conditional use in an orderly and efficient manner and in general accord with all elements of the general plan and the intent and purpose of City Ordinance

(j) All zone regulations apply unless permit is granted.

Unless specifically modified by a conditional use permit, all regulations prescribed in the zone in which such conditional use permit is granted shall apply.

(k) Expiration date of unused permits.

A permit which is not used within the time specified in such permit, or, if no time is specified, within two years after the granting of the permit, becomes null, void and of no effect at all:

The permit issued may be extended for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. In the case of a nonprofit corporation organized

to provide low-income housing for the poor or elderly, there may be an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension;

That, in the case of a conditional use permit filed and heard concurrently with a land division, the limits and extensions allowed shall be concurrent and consistent with those of the land division.

A conditional use permit shall be considered used, within the intent of this section, when construction or other development authorized by such permit has commenced that would be prohibited in the zone if no permit had been granted.

(I) Expiration following cessation of use.

A conditional use permit granted by the Council shall automatically cease to be of any force and effect if the use for which such conditional use permit was granted has ceased or has been suspended for a continuous period of 12 months.

(M) OS-1 – OPEN SPACE OR FLOOD WAY DISTRICT

(1) Definition:

This district is for the protection of drainage ways to permit the unimpeded flow of surface run-off without endangering life and health or causing property damage due to flooding by not allowing structures in this district which generally located in the flood plain.

No temporary structures or merchants may be permitted.

(2) Permitted Uses:

Agricultural uses such as general farming, pasture, grazing, horticulture, truck farming, forestry, sod farming and other wild crop harvesting. Industrial commercial loading areas, parking areas.

Private and public recreational uses not classified as park land such as golf courses, tennis courts, driving ranges, parking lots, archery ranges, picnic grounds, parks, etc. Storage of materials by the City of Box Elder, that are not flood buoyant, flammable, explosive or injurious to human or animal life.

(3) Uses Permitted On Review:

The following uses may be permitted on review by the governing body in accordance with provisions contained in Conditional Use Regulations.

No permit shall be issued for the construction of any building or structure.

(4) Uses Not Permitted:

Chicken or turkey farms, concentrated animal feeding operations, dairies, or similar activities.

(N) NU - TRANSITIONAL DISTRICT**(1) Definition:**

This district is applicable to certain lands in which the construction of permanent structures is prohibited pending study and survey of lands involved by the governing body. The status may be applied to newly annexed land area until a study is conducted to determine the best land use for the area or if the area does not have a designation in the comprehensive plan.

The investigation or study shall not be longer than two (2) years or 730 days.

It is the intent to hold a parcel of land in a NU district for no more than two (2) years and establish suitable zoning in compliance with the Comprehensive and Future Land use Plans.

In no case shall any development, structures or merchants be permitted under this zoning designation.

(O) PLANNED DEVELOPMENT OVERLAY DISTRICT (PD)

(1) Purpose The Planned Development Overlay shall replace Experimental Subdivision Ordinance designations in effect prior to the effective date of this ordinance:

(2) Intent The intent of the planned development overlay (PD) is to permit greater flexibility and promote development that is more economically efficient while being compatible with adjacent land uses that would otherwise normally be permitted by the underlying zoning district. Additionally to allow for a mix of land uses and development standards that would not otherwise be permitted within the conventional zoning districts. It is further intended:

- (a) To allow deviations from the minimum, maximum, or location criteria from the underlying zoning district standards;
- (b) To simplify and enhance the development review and approval process by allowing a conditional use permit application and planned development application to be processed as a single application;
- (c) To provide optional methods of land development and encourage imaginative design.
- (d) To promote more economical and efficient use of land;
- (e) To provide flexible zoning entitlements for projects that may be subdivided and developed in multiple phases;
- (f) To establish a method for providing future connections between existing and proposed developments in order to achieve an integrated

community with common open space, transportation, transit, and public services networks; and

- (g) To allow for the flexibility to grant waivers or modification to City Ordinances and development standards while promoting compatibility with adjacent land uses and public facilities.

(3) General provisions.

- (a) All provisions of any existing Experimental Subdivision approved by the city prior to effective date of this ordinance shall remain in effect.
- (b) Where a conflict exists between an approved planned development and the regulations of the underlying zoning district, the approved planned development shall prevail.
- (c) It is not the intent to allow for the modification or waiver of Flood Damage Prevention Ordinance.

(4) Definitions

DEVELOPMENT REVIEW TEAM. The **DEVELOPMENT REVIEW TEAM (DRT)** is composed of city staff as designated by City Council, two (2) representatives from the Planning Commission and two (2) representative from City Council. The Planning Director shall maintain a list of current members and may revise the list. The Director and/or designee within the department will send (PD) applications to the members for review and comment.

PLANNED DEVELOPMENT (PD). A zoning district designation for a tract of land controlled by one or more landowners, which is developed under a plan for either residential, commercial/retail, industrial, public, agricultural, open space, or recreation uses or a combination thereof.

CONCEPTUAL PLANNED DEVELOPMENT. An **INITIAL/CONCEPTUAL PLANNED DEVELOPMENT** is a preliminary development plan submitted for review by the Development Review Team prior to the preparation and submittal of the Planned Development document. The Planned Development concept is designed to aid the city and the applicant in preparing a complete document application for approval, and may be used for projects with several phases. An **INITIAL PLANNED DEVELOPMENT** shall be formally acted upon by the Planning Commission after review by the DRT. An initial development plan can be filed concurrently with a final planned development. An **INITIAL PLANNED DEVELOPMENT** is optional and not required prior to submittal of a final planned development.

FINAL PLANNED DEVELOPMENT. A **FINAL PLANNED DEVELOPMENT** is a detailed development plan that is formally acted upon by the Planning Commission after review by the DRT. An approved final development plan shall be approved prior to issuance of building permits unless the development proposal complies with the underlying zoning district requirements or prior to approval of the City Council.

(5) Planned development designation application requirements.

- (a) Information required for a planned development designation.
- (i) A completed application signed by the owner of record;
 - (ii) A written letter of intent stating why the planned development designation is being requested;
 - (iii) Project name, legal description, and contact information for the land owner and developer;
 - (iv) A floodplain development permit may be submitted but is not required; and
 - (v) Other information deemed pertinent to the review of the planned development designation by the Director of Community Planning and Development Services.
- (b) Planned development designation review and approval. The owner and/or designated agent shall submit the required application and other specified information to the Planning Office. Upon receipt of a complete application and the required information, the Director shall provide all information to the DRT. The DRT shall have thirty (30) working days from receipt of the application to complete their review and to recommend approval, denial, or suspension of the application. If the DRT recommends approval, the PUD shall be approved by the Planning Director. An application not acted on within thirty (30) working days of submittal (approved, denied or suspended) shall be deemed approved. No notice or hearing shall be required prior to the Planned Development Application being approved. A denial of the Planned Development Designation may be appealed to the Planning Commission within seven (7) working days of the denial. The Planning Commission's decision may be appealed to the City Council.

(6) Initial and final planned development application requirements.

- (a) Information required in initial development plan.
- (i) A completed application signed by the owner of record including the project name, legal description, and contact information for the land owner, developer and design professional(s) and fee;
 - (ii) A written letter of intent stating why the initial planned development is being requested;
 - (iii) A floodplain development permit may be included but is not required;
 - (iv) Other information in order to meet city, county, state and federal rules and regulations shall be submitted for approval when required; and
 - (v) A site plan drawn at a suitable scale including and sheet size to be determined by the Planning Department. Each sheet shall be numbered and contain a title box with the name of planned unit development; name, address, and phone numbers of the

landowner(s); applicant, if different from landowner(s); and any entity charged with the preparation of the PUD document; and date of submission with provisions for dating revisions. In most cases the PUD document will consist of multiple sheets and shall be formatted to including the following minimum:

- (1) Vicinity map at a suitable scale showing all roadways within ½ mile of the property;
- (2) Legal description;
- (3) Proposed conditional uses including the maximum number of dwelling units and/or the maximum square footage and type of nonresidential buildings, signage, parking, etc;
- (4) Proposed minimum setbacks from the perimeter of the planned development for all structures, including accessory buildings;
- (5) Any proposed deviations from the minimum, maximum, or location criteria listed in the underlying zoning district standards including but not limited to setbacks, development density, floor area, lot coverage, lot area, building height, parking ratios, landscaping, signage, fencing, lighting, pedestrian and bicycle facilities, curb cut, driveway, drive aisle, deck projections, etc.
- (6) General location of parking and loading areas except for single-family, 2-family, and townhouse units;
- (7) Location and size of all proposed curb cuts other than for single-family, 2-family and townhouse units;
- (8) Location of existing and proposed water mains, sanitary sewer mains and disposal systems;
- (9) General location of proposed recreation areas and open spaces;
- (10) General locations of any outdoor lighting except for public lighting and lighting for single-family, 2-family, and townhouse units;
- (11) Location of proposed lot lines as applicable;
- (12) General location, width, and grade of existing and proposed improvements to public and private streets;
- (13) Topography at no greater than 5-foot contour intervals;
- (14) General location of proposed storm drainage facilities;
- (15) General phasing plan if applicable.
- (16) Perimeter property lines with measurements;
- (17) Existing and platted streets within or adjacent to the proposed development with right-of-way dimensions and street names;
- (18) Proposed collector or arterial streets within or adjacent to the proposed development with right-of-way dimensions and street names;
- (19) Land use and zoning district designations for adjacent properties;

- (vi) Preliminary drainage report and preliminary drainage plan (if required by the Director of the Department of Public Works);
- (vii) Traffic study (if required by the Director of the Department of Public Works);
- (vii) Off Street parking as regulated by Chapter 153.102 Section (AB).

(b) Information required in the final development plan.

- (i) A completed application signed by the owner of record including project name, legal description, subdivision name (when applicable), and contact information for the land owner, developer and design professional(s) and fee;
- (ii) A written letter of intent stating why the final planned development is being requested;
- (iii) If new construction is proposed, all necessary utility, drainage and access easements shall be submitted along with public facility plans drawn by a registered professional engineer;
- (iv) When applicable, documentation of ownership and continuing perpetual maintenance responsibility for common open space, structures, facilities, private streets, drainage and utility easements, via either a deed to the homeowners association, a joint ownership agreement or other legal binding agreement;
- (v) Other information in order to meet city, county, state and federal rules and regulations shall be submitted when required; and a site plan drawn at a suitable scale including:
 - (1) Proposed conditional uses, including the maximum number of dwelling units and/or the maximum square footage and type of nonresidential buildings;
 - (2) Proposed setback for all structures including accessory buildings;
 - (3) Proposed building heights;
 - (4) Off-street parking facilities including parking spaces, loading spaces, circulation areas and fire access lanes;
 - (5) Location of all pedestrian and bicycle facilities;
 - (6) Detailed landscaping plans showing specific location and types, sizes and quantities of trees, shrubs, sodded or seeded areas, streams, ponds and berms, except for single-family, 2-family, and townhouse units;
 - (7) Location and size of all proposed curb cuts except for single-family, 2-family and townhouse units;
 - (8) Location and type of existing and proposed water mains, sewage mains and disposal systems drawn at a horizontal scale of 1 inch equals 20 feet and a vertical scale of 1 inch equals 5 feet;
 - (9) Location and description of proposed recreation areas, common areas, and open spaces;
 - (10) Location of any outdoor lighting except for public

- lighting and lighting for single-family, 2-family, and townhouse units;
- (11) Location, height and materials of proposed fencing except for single-family, 2-family, and townhouse units;
 - (12) Location, height, size, and setback dimensions of proposed signs including building material specifications;
 - (13) Location of proposed lot lines as applicable;
 - (14) Name, location, width, grade of proposed improvements to public and private streets drawn at a horizontal scale of 1 inch equals 20 feet and a vertical scale of 1 inch equals 5 feet;
 - (15) Proposed final ground contours at no greater than 2-foot contour intervals;
 - (16) Storm drainage plan and grading plan, shown at 2-foot contour intervals, indicating the location of proposed storm sewers, drainage-ways, structures, the direction of water flow, and a permanent and temporary erosion control plan drawn at a horizontal scale of 1 inch equals 20 feet and a vertical scale of 1 inch equals 5 feet with runoff calculations and detailed on-site and off-site hydrologic and hydraulic calculations;
 - (17) If a planned development is to be developed in phases, a development schedule shall be submitted. A scaled map indicating the proposed location and sequence of the future development phases shall be submitted;
 - (18) Floodplain development permit and certificate, as applicable, including first floor elevation and minimum opening elevation for any structure located within a floodplain area; and
 - (19) Location of decks and other projections from proposed structures.
 - (20) Off Street Parking as regulated by Chapter 153.102 Section (AB).

(c) Initial and final planned development review and approval.

The owner and/or designated agent shall submit the required application, number of copies of the planned development, and the appropriate supporting documents to the Community Planning Department for review. Upon receipt of a complete application and the required information, the Planning Director and DRT shall complete their review and provide a recommendation to be forwarded to the Planning Commission with or without stipulations. Upon review by the DRT, if determined that the application is incomplete, the applicant will be notified in writing of the deficiencies and the application will not be scheduled for a public hearing before the Planning Commission until such time as the deficiencies in the application have been corrected. If a decision by the DRT is contested by the applicant, an appeal can be

filed with the City Council. Once the application is complete, the recommendation shall be provided to the owner and/or designated agent and the Director shall place the application and recommendation on the next available Planning Commission agenda, with consideration for the required public notice. The Planning Commission will review the application and DRT recommendations and formally act on the application. The Planning Commission's final decision may be appealed to the City Council.

(d) Public notice.

An applicant for a final planned development shall provide notice to property owners within two-hundred-fifty (250') feet of the property under consideration, inclusive of public right-of-way, by first class mail, not less than seven (7) days prior to the public hearing before the Planning Commission hearing. Notice is also required, via first class mail, to all property owners located within the planned development. The city may require the applicant to sign a certified affidavit prior to the public hearing as evidence to document compliance with the requirements of this section. The city may decide to perform the adjacent property owner mailing and shall notify the applicant in writing prior to scheduling the public hearing.

(e) Criteria for review. In reviewing applications for an initial planned development and/or final planned development, the following findings shall be considered in a recommendation for approval or denial:

- (i) There are certain conditions pertaining to the particular piece of property in question because of its size shape, or topography;
- (ii) The application of these regulations to this particular piece of property would not create a practical difficulty or undue hardship;
- (iii) Exceptions to the underlying zoning district, if granted, would not cause undue hardship to the public good or impair the purposes and intent of these regulations;
- (iv) A literal interpretation of this chapter would deprive the applicant of rights that others in the same district are allowed;
- (v) Any adverse impacts will be reasonably mitigated; or
- (vi) The requested exception to the underlying zoning district standards is an alternative or innovative practice that reasonably achieves the objective of the existing standard sought to be modified.

(7) Initial and final planned development amendments.

- (a) A major amendment to an initial or final planned development shall require approval of the Planning Commission and City Council, as applicable, following the process outlined above in "e".
Minor amendments shall be submitted to the Planning Director on a

revised initial or final planned development plan showing the requested changes. Minor amendments that may be approved administratively by the Planning Director include:

- (i) An increase in overall density, intensity or area of use less than 20%;
- (ii) Any proposed change in the approved phasing plan;
- (ii) A decrease in setbacks less than 20%;
- (iv) An increase in height of buildings less than 20%;
- (v) A decrease in the size of designated open spaces or recreation areas less than 20%;
- (vi) A decrease in the number of parking, loading, or unloading spaces less than 10%;
- (vii) A decrease in the amount of landscaping less than 20%;
- (viii) A change in the street pattern which would not adversely impact adjacent property;
- (ix) Changes in the location and number of curb cuts;
- (x) Changes in items such as location of landscaping, fencing, fire access lanes, parking, loading, or unloading spaces, trash and service areas, signage and sidewalk location which the Director determines to be insignificant in nature; and
- (xi) Any other proposed change deemed by the Director to be a minor change to the approved planned development, within policy.

(8) Appeals. The decision of the Planning Director to approve the application with conditions or deny any application under the administrative exception review process may be appealed to the Board of Adjustment following the application procedures

(9) Documentation of approval. The Planning Director shall note the terms of the approved exception directly on the amended plan and affix his or her signature and the date of approval or denial.

153.101 AIR INSTALLATION COMPATIBLE USE OVERLAY ZONE (AICUZ)

OVERLAY DISTRICT REGULATIONS

(A) PRIMARY SURFACE PROTECTION ZONE (PSZ):

1. General Description:

The Primary Surface Protection Zone is intended to prevent height obstructions within each airfield's primary runway surface area plus the area under transitional and approach surfaces to an elevation of fifty feet (50') above end-of-runway elevation. The fifty foot (50') elevation was chosen to provide the AICUZ-recommended ten foot (10') surface protection factor plus the maximum building height allowed by the City's current zoning ordinance to ensure that no building conflicts would be allowed to be established.

2. Location:

This Zone consists of an area extending outward from the runway centerline of EAFB Runway 13/31 and of RCRA Runway 14/32 for 3,700' from each end of each runway and 1,500' on either side of, and perpendicular to, each runway centerline.

3. Uses Permitted and Not Allowed.

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(B) TRANSITION SURFACE PROTECTION ZONE (TSZ):**1. General Description:**

The Transition Surface Protection Zone is intended to prevent height obstructions in an area adjacent to the Primary Surface Protection Zone which lies under transitional and approach/departure surfaces to an elevation of one hundred and fifty feet (150') above end-of-runway elevation. The one hundred and fifty foot (150') elevation was chosen to provide a surface protection factor above structures of up to one hundred feet (100') in height.

2. Location:

This Zone consists of an area extending from the Primary Surface Protection Zone for EAFB Runway 13/31 and of RCRA Runway 14/32 for 7,500' along a line extending from the end of the Primary Surface Protection Zone and 500' on either side of, and perpendicular to, the Primary Surface Protection Zone.

3. Uses Permitted Uses and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(C) CLEAR ZONE (CLZ)**1. General Description:**

This Airfield Hazard District is established due to its very high aircraft accident potential and extremely high noise level. No structures, overhead lines, or new trees should be allowed in this zone. Activities that encourage or promote a gathering of people should not be allowed.

2. Location:

This Zone consists of an area that is three thousand feet square (3,000' x 3,000') that is centered on the runway centerline of EAFB Runway 13/31 and begins two hundred feet (200') from the end of this runway.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(D) ACCIDENT POTENTIAL ZONE ONE WITH GREATER THAN 79DbA NOISE ZONE (180z):**1. General Description:**

This Airfield Hazard District is established due to its high aircraft accident potential and high noise level. Activities that encourage or promote a gathering of people should not be allowed in this zone. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

Accident Potential Zone One consists of an area that is three thousand feet wide by five thousand feet long (3,000' x 5,000') that is centered on the runway centerline of EAFB runway 13/31 and begins at the outer edge of the Clear Zone.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(E) ACCIDENT POTENTIAL ZONE ONE WITH 75 TO 79 dBA NOISE ZONE (175Z):**1. General Description:**

This Airfield Hazard District is established due to its high aircraft accident potential and high noise level. Activities that encourage or promote a gathering of people should not be allowed in this zone. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

Accident Potential Zone One consists of an area that is three thousand feet wide by five thousand feet long (3,000' x 5,000') that is centered on the runway centerline of EAFB runway 13/31 and begins at the outer edge of the Clear Zone.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(F) ACCIDENT POTENTIAL ZONE TWO WITH GREATER THAN 79dBA NOISE ZONE (280Z):**1. General Description:**

This Airfield Hazard District is established due to its aircraft accident potential and high noise level. All new structures and existing structures that are altered or expanded within this Zone shall with comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

Accident Potential Zone Two consists of an area that is three thousand feet wide by seven thousand feet long (3,000' x 7,000') that is centered on the runway centerline of EAFB runway 13/31 and begins at the outer edge of Accident Potential Zone One.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(G) ACCIDENT POTENTIAL ZONE TWO WITH 75 TO 79 dBA NOISE ZONE (275Z):**1. General Description:**

This Airfield Hazard District is established due to its aircraft accident potential and high noise level. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

Accident Potential Zone Two consists of an area that is three thousand feet wide by seven thousand feet long (3,000' x 7,000') that is centered on the runway centerline of EAFB runway 13/31 and begins at the outer edge of Accident Potential Zone One.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(H) ACCIDENT POTENTIAL ZONE TWO WITH 70 TO 74dBA NOISE ZONE (270Z):**1. General Description:**

This Airfield Hazard District is established due to its aircraft accident potential and high noise level. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

Accident Potential Zone Two consists of an area that is three thousand feet wide by seven thousand feet long (3,000' x 7,000') that is centered on the runway centerline of EAFB runway 13/31 and begins at the outer edge of Accident Potential Zone One.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(I) NOISE ZONE GREATER THAN 79 dBA (80Z):**1. General Description:**

This Airfield Hazard District is established due to its high noise level. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

This Noise Zone is located outside of the Accident Potential Zones for EAFB runway 13/31 and is intended to include the area between the 80 dBA noise contour (shown in the 2008 AICUZ Study for EAFB) and the Accident Potential and Clear Zones.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(J) NOISE ZONE FROM 75 TO 79 dBA (75Z):**1. General Description:**

This Airfield Hazard District is established due to its high noise level. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

This Noise Zone is located outside of the Accident Potential Zones for EAFB runway 13/31 and is intended to include the area between the 80 and 75 dBA noise contours shown in the 2008 AICUZ Study for EAFB.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for

further guidance.

(K) NOISE ZONE FROM 70 TO 74 dBA (70Z):

1. General Description:

This Noise Hazard District is established due to its high noise level from airfield operations and/or transportation corridors. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

This Noise Zone is located outside of the Accident Potential Zones for EAFB runway 13/31 and is intended to include the area between the 75 and 70 dBA noise contours shown in the 2008 AICUZ Study for EAFB and is intended to include the area that extends outward for fifty (50') feet from the right-of-way boundaries of Interstate 90 and of the Railroad.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(L) NOISE ZONE FROM 65 TO 69 dBA (65Z):

1. General Description:

This Noise Hazard District is established due to its high noise level from airfield operations and/or transportation corridors. All new structures and existing structures that are altered or expanded within this Zone shall comply the City's adopted Building Code Requirements for Noise Level Reduction.

2. Location:

This Noise Zone is located outside of the Accident Potential Zones for EAFB runway 13/31 and is intended to include the area between the 70 and 65 dBA noise contours shown in the 2008 AICUZ Study for EAFB and is intended to include the area that extends outward between fifty (50') feet and two-hundred (200') feet from the right-of-way boundaries of Interstate 90 and of the Railroad.

3. Uses Permitted and Not Allowed:

See 153.101 Table "A" - and AICUZ Study for Ellsworth Air Force Base for further guidance.

(M) INNER APPROACH/DEPARTURE ZONE (IAZ):

1. General Description:

This Airfield Hazard District is established due to its high aircraft accident potential and noise level. Activities that encourage or promote a gathering of people should not be allowed.

2. Location:

This Zone consists of an area that is four thousand feet wide by ten thousand, two hundred feet long (4,000' x 10,200') that is centered on the runway centerline at the ends of RCRA runway 14/32.

3. Uses Not Allowed:

- a. Above-ground bulk storage of fuel and other hazardous materials.
- b. Aquaculture.
- c. Chicken or turkey farms.
- d. CAFO's.
- e. Commercial feed lots.
- f. Commercial Wind Energy Systems.
- g. Community centers.
- h. Dairies.
- i. Fur farms.
- j. Gas stations.
- k. Golf courses.
- l. Gun and archery ranges.
- m. Landfills.
- n. Livestock auction yards.
- o. Open water treatment plants.
- p. Public swimming pools.
- q. Telecommunications Facilities.
- r. Uses that create an allowed gathering density of more than fifty (50) people.
- s. Uses that create an average gathering density of more than twenty-five (25) people.
- t. Public assembly uses for entertainment, sports, or amusements, such as amphitheaters, arenas, auditoriums, fairgrounds, racetracks, or theaters.
- u. Public service uses such as schools, hospitals, nursing homes, and police or fire stations.
- v. Uses that create hazards to aircraft operations, such as uses that release substances that would impair pilot vision (steam, smoke, dust), produce light emissions, either direct or indirect, that would interfere with pilot vision, or produce electrical emissions that would interfere with aircraft communications or navigation systems.

4. Maximum density:

- a. The maximum residential lot density within this district shall be one (1) dwelling unit per ten (10) acres.

(N) CIRCLING TRAFFIC PATTERN PROTECTION ZONE (CTZ)**1. General Description:**

This Airfield Hazard District is established due to its aircraft accident potential and noise level. Activities that encourage or promote large gatherings of people should not be allowed.

2. Location:

This Zone, located under the air traffic pattern of RCRA runway 14/32, consists of an area that is created by swinging arcs of fourteen thousand feet (14,000') from the center of each end of the runway and connecting these arcs by drawing lines tangent to these arcs.

3. Uses Permitted on Review:

- a. Golf courses (allowed with a program to reduce wildlife attractiveness).

4. Uses Not Allowed:

- a. Aquaculture.
- b. Chicken or turkey farms.
- c. CAFO's.
- d. Commercial feed lots.
- e. Commercial Wind Energy Systems.
- f. Dairies.
- g. Fur farms.
- h. Landfills.
- i. Livestock auction yards.
- j. Open water treatment plants.
- k. Uses that create an allowed gathering density of more than four hundred and fifty (450) people.
- l. Uses that create an average gathering density of more than one hundred and fifty (150) people.
- m. Public assembly uses for entertainment, sports, or amusements, such as amphitheaters, arenas, auditoriums, fairgrounds, racetracks, or theaters.
- n. Public service uses such as schools, hospitals, or nursing homes.
- o. Uses that create hazards to aircraft operations, such as uses that: release substances that would impair pilot vision (steam, smoke, dust), produce light emissions, either direct or indirect, that would interfere with pilot vision, or produce electrical emissions that would interfere with aircraft communications or navigation systems.

(O) AVIATION HAZARDS ZONE (AHZ):**1. General Description:**

This Airfield Hazard District is established due to FAA recommendations to

protect airfields from hazardous wildlife attractants and tall structures.

2. Location:

This Zone encompasses a five (5) mile area around RCRA runway 14/32 and around EAFB runway 13/31.

3. Uses Permitted on Review:

- a. Golf courses (allowed with a program to reduce wildlife attractiveness).

4. Uses Not Allowed:

- a. Aquaculture.
- b. Chicken or turkey farms.
- c. CAFO's.
- d. Commercial feed lots.
- e. Commercial Wind Energy Systems.
- f. Dairies.
- g. Fur farms.
- h. Landfills.
- i. Livestock auction yards.
- j. Open water treatment plants.
- k. Uses that create hazards to aircraft operations, such as uses that release substances that would impair pilot vision (steam, smoke, dust), produce light emissions, either direct or indirect, that would interfere with pilot vision, or produce electrical emissions that would interfere with aircraft communications or navigation systems.

5. Maximum Structure Height:

- a. Unless further restricted by the requirements of other Overlay Zones, applications for building or other permits for all structures exceeding 200' in height shall be accompanied by a copy of the decision of record by the FAA for the applicant's Form 7460-1, Notice of Proposed Construction or Alteration, and a copy of the permit issued by the South Dakota Aeronautics Commission for the proposed structure.

**SUPPLEMENTARY REGULATIONS APPLYING TO A SPECIFIC,
TO SEVERAL OR TO ALL DISTRICTS**

153.102 SUPPLEMENTARY REGULATIONS GENERAL:

(A) ADULT ORIENTED BUSINESSES: No AOB shall be located within 1000 feet, measured from the closest points of the property lines and including areas within public rights-of-way, of any Residential District or Manufactured Home Park, day care center, day care home, nursing home, assisted living or other similar facility providing care for the elderly or disabled, any public or private school (including pre-school, elementary school, middle school, secondary school, high school,

instructional school, vocational school, trade school, college, or university), public park, public open space, arcade or game center, public library, church, synagogue, temple, or other house of worship. No AOB shall be located within 1,000 feet of another AOB.

(B) FENCES: Fences may be constructed in all zoning districts. However, fences taller than six feet shall not be constructed before the property owner obtains an approved CUP. The maximum front-yard fence height in Residential Zoning Districts shall not exceed four feet in any front yard, or in the case of a corner lot the fence shall not exceed four feet in height in any front or side yard adjacent to a public Right-of-Way.

(C) FLOOD HAZARD AREAS: Flood Hazard Areas are designated by the Federal Emergency Management Agency and may occur in all zoning districts, codified in Chapter 151 of this code of ordinances, provides supplementary regulations for flood hazard areas.

(D) HOME OCCUPATIONS: All home occupations shall meet the following criteria and minimum standards:

A customary home occupation is a gainful occupation or profession conducted by members of the family residing on the premises and conducted entirely within the dwelling. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings.

- (1) The home occupation shall be conducted entirely within the dwelling unit and shall be conducted by the residents of the dwelling unit. No more than two non-family employees are allowed.
- (2) The area set aside for a home occupation shall not exceed 33% of the total floor area of the residence, including attached garages. The permissible floor area includes that space necessary for storage of goods or products associated with the home occupation.
- (3) Merchandise offered for sale shall be clearly incidental to the home occupation, provided that orders may be taken for later delivery to off-premise locations.
- (4) No toxic, explosive, flammable, combustible, corrosive, etiological, radioactive, or other hazardous material shall be stored in the residence.
- (5) No mechanical equipment other than that ordinarily utilized within a residence for household or hobby purposes shall be allowed.
- (6) No activity shall be conducted which would interfere with radio or television transmission or reception in the area, nor shall there be any offensive noise, smoke, dust, or heat noticeable beyond the premises.

- (7) No home occupation shall require internal or external alteration of the residence or other visible evidence of the conduct of such home occupation.
- (8) 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.
- (9) If the home occupation is the type in which classes are held or instructions given, there shall be no more than six students on the premises at any one time.
- (10) Operation of a home occupation involving customer, student, or employee access shall be restricted to the hours between 8:00 a.m. and 9:00 p.m.
- (11) The following occupations subject to the requirements of the above paragraph are permitted as customary home occupations:
 - (a) Antiques, provided, however, that outdoor display is prohibited.
 - (b) Artist, sculptor, author.
 - (c) Barber shop and beauty shop operated by only two (2) members of the residence.
 - (d) Dressmaker, milliner, seamstress, tailor, interior decorator.
 - (e) Professional office of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same, provided that not more than one paid assistant shall be employed.
 - (f) Teaching, including tutoring, musical instruction or dancing, but limited to two pupils per teacher at any given time.
 - (g) Not more than twenty five (25) percent of the floor area in the structure can be used for customary home occupations.
 - (h) Any other similar use which the governing body deems to be a home occupation.

(E) MANUFACTURED HOME DEVELOPMENT:

- i. Manufactured home development in existence prior to January 1, 2016, shall meet the following minimum criteria and standards, in addition to complying with any applicable Subdivision Regulations, if the court is altered in any manner:
 - (1) The following criteria shall be met for sitting new MHS:
 - (a) The MHS shall be located at least one-fourth mile from I-90.
 - (b) The MHS shall be located at least two-hundred (200') feet from railroad tracks.
 - (c) The visibility of the MHS from I-90 shall be screened by topography or by screening with multiple intervening rows of trees and shrubs.

- (d) The MHS shall be located adjacent to, and take access from, a collector or arterial street.
 - (e) The MHS shall not be located in a flood hazard area.
 - (f) The MHS shall not be located in an accident potential zone.
 - (g) The MHS shall not be located in a high noise zone (>70dBA.)
 - (h) All individual lots are required to be plated, an approved layout plat shall be filed with the City and County showing all home lots, access roads and other improvements.
 - (i) The existing "Manufactured Home Parks" shall be located in GR-4 Zoning District.
 - (j) The MHS shall be connected, at the owner's expense and to the city's specifications, to the city's water and sanitary sewer services.
- (3) The MHS shall be located on a well-drained site; properly graded to insure rapid drainage of the site upon which manufactured home lots are to be provided; and shall not be located in a flood hazard area.
- (4) Each MHS shall be permitted to display on each street frontage one on-premise, identifying sign at each entrance to the property from the public Right-of-Way.
- (6) There shall be paved off-street parking spaces, for each manufactured home lot, which shall be on the same manufactured home lot as the home served, and may be located in the yard of the manufactured home lot. The parking spaced for adjoining manufactured home lots shall not be continuous.
- (7) There shall be established and maintained within each MHS an automobile parking area for the use of guests. The number of parking spaces within this area shall be equal to one parking space for every four manufactured home lots.
- (8) Internal streets within an MHS shall be paved to a width of not less than twenty-two (22') feet with curb and gutter and have no on street parking. When approved by the Planning Commission, guest parking may be waived when paved access roads are constructed no less than forty-two (42') in width from back of curb-to-back of curb.
- (9) Internal streets within an MHS shall have a curved radii of at least 50 feet at the MHS entrances and at all curves.

- (10) Internal streets within an MHS shall have rolled curbing and sidewalks that are at least five (5') feet wide on both sides of the street. Paved walking paths may be substituted for the sidewalks with Commission approval.
- (11) There shall be two unobstructed accesses from within the MHS to the public street.
- (12) All manufactured home lots shall be provided with access to the internal publicly accept street system.
- (13) Each manufactured home lot shall be provided with a water service connection, including a curb stop, and a connection to a sanitary sewer, both to city specifications.
- (15) Homes that cannot be connected to a sanitary sewer shall not be permitted in a MHS.
- (16) The MHS shall provide adequate lighting for all parking areas, street, and sidewalks. An engineered "Street Lighting Plan" shall be submitted to the Public Works for approval prior to construction.
- (17) The MHS shall provide public and/or private park and play areas for residents at a ration of five-hundred (500) square feet for every twenty (2) home lots, and bus shelters for students. Parks and play areas must be provided level ground and not located with a drainage or flood hazard area. In no case shall a park/play area be less than five-thousand (5,000) square feet.
- (18) The MHS shall provide a paved, outdoor storage area, enclosed with a six (6') high privacy fence, for use by residents for storage of licensed boats, campers, etc. The number of parking spaces within this area shall be equal to one parking space for every four manufactured home lots. Each parking spaces shall be not less than five-hundred (500) square feet.
- (19) No accessory structure larger than 120 feet shall be allowed on each lot within a MHS without a conditional use permit. (Exception: Manufactured Home Office/Maintenance Structures)
- (20) Homes shall not be used for commercial, industrial or other non-residential uses within the MHS.
- (21) MHS access roads, parking areas, drainage structures, water service lines, and sewer service lines shall be maintained in a workmanlike manner that does not promote repeated quality-of-service complaints by MHS tenants and visitors to the city.
- (22) Factory-built homes shall be skirted within 30 days of being placed in

a MHS. Failure to meet this requirement by the home owner is hereby deemed to be a public nuisance. Such public nuisances shall be sufficient grounds for the city to terminate water and sanitary sewer services to the home and to revoke the approved occupancy of the home.

- (25) A minimum of six (6) inches of compacted gravel or other suitable pavement material shall be installed on each trailer home space. The size of pads shall be no less than 20' X 40', but in no case less than the size of the home occupying the space.
- (26) All manufactured home spaces shall have a minimum four (4) foot wide concrete walk extending from the parking area to the front entrance of the home.
- (27) Each manufactured home Lot shall be provided with at a minimum 10' X 10' accessory structure for storage of law care equipment, etc..

ii. PARKING PERMITS (Manufactured Home)

- (1) Mobile home units parking on a rented lot as temporary quarters, shall obtain a parking permit from the City Hall Office in the amount of \$10.
- (2) Mobile home units or double-wide mobile home units set on property as a permanent home or land owned by the individual setting the particular unit, will be required to obtain a parking permit on the same basis as a building permit, which charged by valuation.

Valuation	Fee
\$1 to \$4,000	\$10
\$4,001 to \$10,000	\$15
\$10,001 to \$20,000	\$20
Above \$20,000	\$50

- (3) A fee for the exchange of mobile homes for another shall be charged by the difference of valuation between traded property and acquired property. This valuation should be established by the personal property tax as assessed by Pennington County.

Valuation	Fee
\$1 to \$ 2,000	\$5
\$2,001 to \$ 4,000	\$10

\$4,001 to \$10,000	\$15
\$10,001 to \$20,000	\$20
Above \$20,000	\$25

(4) APPLICATION FOR PARKING PERMIT.

- (a) Mobile home owners, other than mobile home courts, will be held liable for obtaining a mobile home parking permit to park the dwelling upon private property within the city limits of Box Elder.
- (b) The permit is available at the Box Elder City Hall for the sum of \$10.
- (c) An application will be filled out at the time of purchase of the parking permit for the viewing of the City Council.
- (d) After inspection by a member of the City Council, and the member of the Council finds property is not situated as filled out on above mentioned application, abiding by city ordinances, the mobile home owner will be denied water service until the time as city ordinances have been complied with.

(5) PENALTY

A violation of any provision of this chapter or any amendment thereto, or failure to perform any act required hereunder, may be issued an Administrative Citation, or may be declared a Class 2 misdemeanor. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case. Any violation of this chapter may hereby be declared to be a public nuisance per Title 93.

(F) ON-SITE SEWAGE DISPOSAL SYSTEMS:

Any use involving a principal structure which is not served by a sanitary sewer, in addition to other requirements. When approved by the Public Works Director, shall have an approved on-lot sewage disposal system. Plans and specifications for the on-lot sewage disposal system shall be approved by the South Dakota Department of Water and Natural Resources. The approval may be made contingent upon an agreement that the structure will be connected to a sanitary sewer when plans indicate that such sewer will be extended or constructed and become available. The approval may further stipulate an increase in lot size to assure appropriate septic field, drainage and relation to abutting development or any classified stream.

(G) RECREATIONAL VEHICLES:

RV's being used as living quarters shall be first placed in an RV park. RV's may be used as temporary living quarters on any parcel in a Residential Zoning District for up to seven consecutive days, but in any case, for no more than 14 days in any calendar year.

(H) PUBLIC and PRIVATE UTILITIES:

Public and Private Utilities shall be subject to the following requirements:

- a. South Dakota Department of Water and Natural Resources (DENR) Report - Application for permission to operate water works and/or sewage treatment plants shall be accompanied by a report and a recommendation from the South Dakota Department of Water and Natural Resources. Such recommendations as to design and construction, type of treatment, source of water, standards for testing and sampling and standards for the quality of effluent shall be incorporated into and made a part of the application.
- b. Lot Area and Location - The required lot area and location shall be specified as part of the application and shall be determined in relating to the proposed use, the intensity of such use and the effects of such use upon the environment.
- c. Fencing and/or Screening - Where findings indicate that a hazard may result or that interference with the development or use and enjoyment of surrounding residential properties may ensue, fencing or screening with an evergreen hedge or other shielding material may be required in a manner consistent with such findings.

(I) SHEDS and STORAGE BUILDINGS: No more than two accessory sheds or storage buildings shall be allowed per parcel in any Residential Zoning District. The square footage of such sheds and/or storage buildings shall be included in the calculation of the maximum lot coverage in the Residential Zoning District. Such structures shall be kept in a neat workman like manner. No such accessory structures shall be allowed on a parcel in a Residential Zoning District until the principle residential use has been established.

(J) SIGNS and OUTDOOR ADVERTISING: As codified in Chapter 154 of this code of ordinances, provides supplementary regulations for signs and outdoor advertising.

(K) TELECOMMUNICATIONS FACILITIES (TF):

- (1) All proposed support structures shall be designed to be the minimum height needed to meet the service objectives of the applicant. The maximum height of a TF shall be less than 100 feet above the pre-construction level of the grade adjacent to the support structure location. This height shall be an exception to the Zoning District's maximum structure height. However, a variance may be granted to allow a maximum height of up to 150 feet if the applicant's PE certifies in writing that such a height is the sole viable option

available to site the TF within municipal limits.

- (2) The minimum setback distance between each TF support structure and all surrounding property lines, overhead utility or transmission lines, other TF, wind turbine towers, electrical substations, public roads, and dwelling units shall be equal to no less than one point one times the system height (measured from the grade adjacent to the tower pad to the highest system component, including antennae).
- (3) The building permit application for a TF, in addition to the requirements of 153.096 above, shall include structure plans prepared by a PE and a certification by a PE that the structure has been designed to withstand the wind, snow, and ice loads typical of this area. The building permit application shall be submitted with the CUP application. The building permit application shall show the number and type of proposed antennae and their height above ground level, including the proposed placement of antennae on the support structure.
- (4) TF shall be collocated if feasible. If collocation is not feasible, the CUP applicant shall submit a written certification of why collocation is not a viable option and that explains the alternatives considered and why those alternatives were either unacceptable or infeasible due to technical, physical, or financial reasons. If an existing support structure is listed among the alternatives, the applicant must specifically address why the support structure is not a viable option.
- (5) The CUP application shall be accompanied by a letter of authorization from the property owner granting the applicant the authority to apply for the CUP.
- (6) The CUP application for a new support structure shall be accompanied by a letter stating that the proposed support structure will be made available for collocation to other service providers at commercially reasonable rates.
- (7) A proposed TF support structure intended to be built as a monopole shall have a galvanized silver or gray finish, accommodate at least three telecommunications providers, and have a site area surrounding the monopole of sufficient size to accommodate accessory equipment for at least three telecommunications providers.
- (8) A proposed TF support structure intended to be built as a tower shall have a galvanized silver or gray finish, accommodate at least four telecommunications providers, and have a site area surrounding the tower of sufficient size to accommodate accessory equipment for at least four telecommunications providers.
- (9) All proposed TF support structures shall be designed as stealth telecommunications facilities.

- (10) All ground- or pad-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. If the TF is located in a flood hazard area, said equipment shall be located more than three feet above the base flood elevation at the site.
- (11) All accessory equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the TF or support structure. Any equipment not used in direct support of such operation shall not be stored on the site.
- (12) All TF facilities shall comply with the setback and yard requirements of their zoning district. TF facilities may be located on a parcel containing another principal use on the same site.
- (13) The visual impact of all accessory equipment above ground level shall be mitigated by fencing or landscaping. A mitigation plan shall be submitted with the CUP application. Fencing and landscaping materials shall be installed and maintained in a workman-like manner.
- (14) All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on any TF structure that is visible from any public road shall be prohibited.
- (15) All electrical wires associated with a TF shall be buried underground.
- (16) A TF support structure shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above adjacent grade.
- (17) A TF shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- (18) A TF shall comply with all applicable state and local construction and electrical codes and the National Electrical Code.
- (19) A TF shall not be installed until evidence has been provided to the Planning Coordinator that the FAA has been informed of the applicant's intent to install a TF.
- (20) A TF that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. An abandoned TF shall be deemed a public nuisance.
- (21) A COW may be placed at any location within the city without a CUP or building permit for not more than 120 days from the date of a declaration of an emergency by the Mayor.
- (22) A COW may be placed at any location within the city without a CUP or building permit for not more than 14 days to serve a community event declared as such by the Council.

(L) WIND ENERGY SYSTEMS (WES): Wind energy systems shall meet the following criteria and standards:

- (1) The maximum height of a WES shall be less than 75 feet above the pre-construction level of the grade adjacent to the tower location. This height shall be an exception to the zoning district's maximum structure height.
- (2) The minimum setback distance between each wind turbine tower and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, public roads, and dwelling units shall be equal to no less than one point one times the system height (measured from the grade adjacent to the tower pad to the highest system component, including blades).
- (3) The vertical distance from the adjacent grade to the tip of the wind turbine blade when the blade is at its lowest point must be at least 25 feet.
- (4) The owner of a WES shall take such reasonable steps as are necessary to prevent, mitigate, and eliminate shadow flicker (the shadow cast by the rotating blade of the WES) on an occupied building on adjacent property.
- (5) The owner of a WES shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwave, or television signals caused by the WES.
- (6) The building permit application for a WES, in addition to the requirements of 153.096 above, shall include structure plans prepared by a PE and a certification by a PE that the structure has been designed to withstand the wind, snow, and ice loads typical of this area.
- (7) All ground- or pad-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. If the WES is located in a flood hazard area, said equipment shall be located more than three feet above the base flood elevation at the site.
- (8) All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on any WES structure that is visible from any public road shall be prohibited.
- (9) All electrical wires associated with a WES, other than wires necessary to connect the wind turbine to its base and to overhead collection lines must be buried underground.
- (10) A WES tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above adjacent grade.
- (11) A WES shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

- (12) A WES shall not generate more than sixty dBs of sound, as measured at the closest portion of the nearest inhabited dwelling when the wind speed is less than 20 miles per hour.
- (13) A WES shall remain painted or finished in the color or finish that was originally applied by the manufacturer unless otherwise stipulated in the CUP.
- (14) A WES shall comply with all applicable state and local construction and electrical codes and the National Electrical Code.
- (15) A WES shall not be installed until evidence has been provided to the Planning Coordinator that the appropriate utility company has been informed of the applicant's intent to install an interconnected WES. Off-grid systems shall be exempt from this requirement.
- (16) A WES shall not be installed until evidence has been provided to the Planning Coordinator that all communication tower operators within two miles of the proposed WES location have been informed of the applicant's intent to install a WES.
- (17) A WES that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. An abandoned WES shall be deemed a public nuisance.

M. CEMETERY:

Cemetery may be permitted in any zoning district under a Conditional Use Permit and with the following regulations.

- (1) The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare.
- (2) Any new cemetery shall be located on a site containing not less than twenty (20) acres.
- (3) All other structures including but not limited to mausoleum, permanent monument or maintenance building shall be set back not less than fifty (50) feet from any property line or street right-of-way line.
- (4) All graves or burial lots shall be set back not less than twenty five (25) feet from any property line or street right-of-way line.
- (5) All required yards shall be landscaped and maintained.

N. DRIVE-IN THEATER:

Drive-In Theaters may be constructed in Commercial and Highway Service Zoned Districts under a Conditional User Permit and when complying with the following regulations.

- (1) The site must have direct access to a major public road.

- (2) In addition to the required setbacks from streets and highways, all yards shall be planted and maintained as a landscaped strip.
- (3) The theater screen shall not be visible from any public street within fifteen hundred (1,500) feet. In addition, cars parked in the viewing area shall be screened on all sides by a wall, fence or densely planted evergreen hedge not less than six (6) feet in height.
- (4) Loading space for patrons waiting admission to the theater shall be equal to twenty (20%) percent of the capacity of the theater. All entrances and exits shall be separated and internal circulation shall be laid out to provide one-way traffic.
- (5) Sale of refreshments shall be limited to patrons of the theater.
- (6) No central loudspeakers shall be permitted, unless utilized for emergency purposes only..
- (7) All parking areas and access ways shall be adequately lighted, provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties.
- (8) Amusement parks or kiddy-lands shall be limited to patrons of the theater.

O) AUTOMOBILE WRECKING AND JUNK YARDS:

- (1) Under a Conditional Use Permit and only in Heavy Industrial Zoned areas, may Automobile Wrecking/Junk Yards exist.
- (2) Location - Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300') feet from any established residential district.
- (3) Screening - All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence or wall, excepting driveway areas, having a minimum height of eight (8) feet. Storage between the street and such fence or wall is expressly prohibited. Any fence or wall erected for screening purposes shall be within the buildable area of the lot and shall be properly painted or otherwise maintained in good condition. If the CUP is approved, no variance will be required for the fence up to eight (8') feet in height.
- (4) Off-Street Parking - As regulated in Chapter 153.102 Section (AB).
- (5) Ingress and Egress - The number of vehicular access driveways permitted on any single street frontage should be limited to:
 - (a) One (1) driveway where the parcel to be used has a maximum street frontage of one hundred (100) feet or less.
 - (b) Two (2) driveways where the street frontage exceeds one hundred (100) feet.
Driveways used for ingress and egress shall be limited to thirty (30) feet in width, exclusive of curb returns.

(P) PRIVATE DAY NURSERIES AND KINDERGARTENS:

- (1) A fenced play area shall be provided. No portion of the fenced play area shall be located closer than thirty five (35) feet to any public street.

- (2) In addition to the requirements above, the facilities, operation and maintenance shall meet the requirements of the Department of Social Services.

(Q) ACCESSORY USES, GENERAL:

The uses of land, buildings and other structures permitted in each of the districts established by this Ordinance are designated by listing the principal uses permitted. In addition to such principal uses, this section shall regulate uses customarily incidental to any principal use permitted in the District.

- (1) General Provisions:

Each permitted accessory use shall:

- (a) Be customarily incidental to the principal use established on the same lot.
- (b) Be subordinate to and serve such principal use.
- (c) Be subordinate in area, extent and purpose to such principal use.
- (d) Contribute to the comfort, convenience or necessity of users of such principal use.

- (2) Permitted Accessory Structures:

Accessory uses shall be permitted as specified above and such accessory uses shall be applicable to the principal use.

(R) HEIGHT, GENERAL:

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth elsewhere herein:

- (1) In measuring heights, a habitable basement above ground or attic shall be counted as a half story.

- (2) The following structures or parts thereof are hereby exempt from the height limitations set forth in the zoning districts.

- (a) Agricultural buildings - barn, silo, windmill but not including dwellings.
- (b) Chimneys, smokestacks, penthouse, spires, flagpoles, ventilators, skylights, derricks, conveyors and cooling towers.
- (c) Radio and television antennae and towers, observation towers and power transmission towers.
- (d) Water tanks and standpipes.
- (e) Other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the districts in which they are located, provided that they are not used for human occupancy.

- (3) Churches, schools, hospitals, sanatoriums and other public and semi-public buildings may exceed the height limitations of the district if the minimum depth of the front, side and rear yards required in the District is increased one (1') foot for each additional two (2') feet of side yard over the minimum by which the height of such public or semi-public structure exceeds the prescribed height limit.

(S) YARD, BUILDING SETBACK AND OPEN SPACE EXCEPTIONS, GENERAL:

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth elsewhere herein:

- (1) No yard, open space or lot area required for a building or structure shall, during its life, be occupied by any other building or structure except:
 - (a) Awnings and canopies, as provided for in the International Building Code.
 - (b) Bay windows and chimneys, not to exceed two (2) feet, in front and rear yards.
 - (c) Driveways, curbs, sidewalks and steps, provided, however, steps or stairs to dwelling, non-enclosed, not to exceed four (4) feet.
 - (d) Fences, walls and hedges, subject to the regulations as set forth in this section.
 - (e) Flagpoles.
 - (f) Garbage disposal equipment, non-permanent.
 - (g) Landscape features, planting boxes and recreational equipment.
 - (h) Open fire escapes may extend into any required yard not more than five (5) feet.
 - (i) Parking space subject to the regulations set forth in Chapter 153.102 Section (AB).
 - (j) Signs, subject to the regulations set forth in Chapter 154.
 - (k) Terraces (open) and porches (non-enclosed) not to exceed six (6) feet in front or rear yard.
 - (l) Trees, shrubs, flowers and other plants subject to the vision requirements in this section.
 - (m) Eaves and overhangs may extend up to twenty-four (24") inches into any required yard.
- (2) The following regulations provide for the maximum safety of persons using sidewalks and streets, and for the maximum enjoyment of the use of property:
 - (a) On any corner lot where a front and side yard is required, no **opaque** wall, fence, sign, structure, or any plant growth which obstructs sight lines at elevations between three and one-half (3 1/2) feet and ten (10) feet above the crown of the adjacent roadway shall be placed or maintained within a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty five (25) feet along the front and side lot lines and connecting the

- points so established to form a sight triangle on the area of the lot adjacent to the street intersections.
- (b) In any required front yard, except as provided in 1 above, no fence, wall, hedge, or yard ornament shall be permitted above the height of four (4) feet.
- (3) The purpose here is to clarify certain conditions pertaining to the use of lots and access points.
- (a) In Residential Districts, if twenty-five (25%) percent or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line of greater than twenty five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but, this regulation shall not require a front yard of a greater depth than fifty (50) feet.
- (b) Division of a lot - No recorded lot shall be divided into two or more lots by platting or metes and bound description unless such division results in the creation of lots each of which conforms to all of the applicable regulations of the district in which the property is located. No reduction in the size of a recorded lot below the minimum requirements of this Ordinance shall be permitted.
- (c) Dwelling on small lots - Where there are existing recorded lots which do not meet the minimum lot area requirement and are under separate ownership - single - family dwellings only may be constructed as long as side yard shall be not less than four (4) feet and the sum of the side yards shall not be less than eight (8) feet and as long as all other requirements, except lot size, are met.
- (d) Principal uses without buildings - Where a permitted use on land involves no structures, such use, excluding agricultural uses, shall nonetheless comply with all yards and minimum lot area requirements applicable to the district in which located, as well as obtain any other license or permit applicable to that particular use.
- (e) Where the dedicated street right-of-way is less than fifty (50) feet, the depth of the front yard shall be measured starting at a point sixty (60) feet from the center line of the street easement.
- (f) No dwelling shall be erected on a lot which does not abut on at least one street for at least sixty (60) feet with the exception of lots fronting a cul-de-sac in which case a minimum width of sixty (60) feet measured at the front building line will be required. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress.
- (g) An attached or detached private garage which faces on a street shall not be located closer than twenty-five (25) feet to the street right-of-way line. Where the garage faces a side street on a corner lot, this distance shall be no less than eighteen (18) feet.
- (h) Accessory buildings shall not be located in any required front yard.

(T) GASOLINE/FUELING SERVICE STATIONS:

The following regulations shall apply to all gasoline service stations:

1. There shall be a building, pump or accessories use setback from all right-of-way lines a distance of not less than forty (40) feet.
2. Service stations structures shall not be constructed closer than fifty (50) feet to any Residential District.
3. The minimum distance between the intersection of right-of-way lines at a corner lot and the driveway to a service station shall not be less than forty (40) feet.
4. A raised curb at least six (6) inches in height shall be constructed on all street property lines, except at driveway openings.
5. The length of curb openings shall not exceed thirty (30) feet.
6. When two curb openings are giving access to a single street, they shall be separated by a minimum dimension of fifty (50) feet at both the edge of the pavement and the right-of way line. Curb cuts for driveways shall not be located closer than twenty-five (25) feet to any adjoining property line.
7. To insure that sufficient room be provided on either side of the pumps without intruding upon sidewalks or on adjoining property, gasoline pumps shall not be located closer than fifty (50) feet form any Residential District.
8. Gasoline pumps shall not be located closer than forty (40) feet to any public right-of-way line.
9. All stations offering for sale gasoline or similar products shall be monitored twenty-four (24) hours each day by a camera system.
10. A masonry wall or solid fence shall be constructed when service station property abuts property zoned for residential purposes. Such wall shall be not less than six (6) feet in height, but no more than eight (8) feet in height, and all required yards shall be landscaped and maintained as per the landscape regulations in Chapter 156.
11. Off-Street Parking - As regulated in Chapter 153.102 Section (AB).
12. Signs - As regulated in the sign ordinance Chapter 154.

(U) TEMPORARY USES:

The regulations contained in this section are necessary to govern the operation of certain transitory or seasonal uses, non-permanent in nature.

- (1) Application for a Temporary Use Permit shall be made to the Planning & Zoning Office and shall contain at a minimum the following information:
 - (a) A survey or legal description of the property to be used, rented or leased for a temporary use, including all information necessary to accurately portray the property.
 - (b) Address and contact information related to the property owner.
 - (c) A written approval from the property owner related to use of the property.
 - (d) Address and contact information related to the user.
 - (e) A description of the proposed use.

- (f) Sufficient information to determine the yard requirements, setbacks sanitary facilities and availability of parking space to service the proposed use.
- (2) The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:
 - (a) Carnival or Circus - In any non-residential district, a Temporary Use Permit may be issued for a carnival or circus, but such permit shall be issued for a period of not longer than fifteen (15) days. Such a use shall set back from all Residential Districts a distance of one hundred (100) feet or more.
 - (b) Temporary Buildings - In any district, a Temporary Use Permit may be issued by the Planning Office for a contractor's temporary office and equipment sheds incidental to a construction project. Such office or shed shall not contain sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year, but may be renewed a maximum of two one-year extensions. However, such office or shed shall be removed upon completion of the construction project or upon expiration of the Temporary Use Permit, whichever occurs sooner.
 - (c) Real Estate Sales Office - In any district, a Temporary Use Permit may be issued by the Planning Office for a temporary real estate sales office in any approved new subdivision. Such office shall contain no sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year, but may be renewed a maximum of three (3) one-year extensions. Such office shall be removed or converted to a conforming use upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.

(V) TENTS:

No tent shall be used, erected or maintained as living quarters for a period of more than fifteen (15) days, within any thirty (30) day time period, in other than approved campground.

(W) SWIMMING POOLS:

The following regulations shall apply to swimming pools:

- (1) A private swimming pool shall be any pool or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1 1/2) feet. Private swimming pools are permitted in any Residential District provided:

- (a) The pool is intended and is to be used solely for enjoyment of the occupants of the property on which it is located and their guests.
 - (b) No swimming pool or part thereof, excluding aprons, walks and equipment rooms, shall protrude into any required front or side yards.
 - (c) The swimming pool area shall be so walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties. Said fence or wall shall be not less than five (5) feet in height and maintained in good condition.
- (2) A community or club swimming pool not open to the public shall be any pool constructed by an association of property owners, or by a private club for use and enjoyment by members of the association or club and their families and guests. Community and club swimming pools shall comply with the following conditions and requirements:
- (1) The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
 - (2) The pool and accessory structures thereto, including the areas used by the bathers, shall be not closer than fifty (50) feet to any property line of the property on which located.
 - (3) The swimming pool and all of the area used by the bathers shall be so walled or fenced so as to prevent uncontrolled access by children from the street or adjacent properties. Said fence or wall shall be not less than five (5) feet in height and maintained in good condition. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition.

(X) SUPPLEMENTAL REGULATIONS FOR TEMPORARY CAMPING AT A RESIDENCE WITHIN THE CITY:

1) Purpose:

The purpose of these provisions is to establish and regulate temporary non-public camping activities or camping not otherwise subject to state regulation within the City of Box Elder. Any homeowner seeking to provide temporary non-public camping as described in this ordinance shall be subject to the requirements of this ordinance. Non-profit organizations and licensees exempted from state campground license requirements by SDCL 34-18-20 that conduct non-public camping activities within the City shall be subject to the requirements of this ordinance.

2) Definitions:

Temporary Camping: As used in this section, temporary camping shall mean for a period not to exceed 15 consecutive days within any 30 day period.

Residential Parcel: A plot of land within the city shown on the Equalization Office records to be taxed as one parcel, containing a single family home,

used or occupied by the owner as a residence year round together with any accessory buildings, and including such open spaces as may be required under the provisions of this ordinance, having its principal frontage on a public highway, road, street or private road or right-of-way as meets the requirements of Zoning and Subdivision regulations in City Ordinances.

Camper: An individual.

Camping unit: Any trailer, tent camper, camper, camping cabin, tent, recreational park trailer, self-contained recreational vehicle or other equipment that may be used by the traveling public at individual campsites located at campgrounds or areas used by the public as campgrounds;

Campsite: A specific parcel of land in a campground intended for occupancy and use by a camping unit or units.

Pre-existing Non-Conforming Use: A use of an improvement to real property, such as a building, structure, parking lot use, sign or portion thereof, or of the residential property, which was lawfully established prior to the passage of this Ordinance but which, due to the application of City of Box Elder Zoning Ordinances, is no longer authorized to continue.

Temporary structure: Any structure, building, enclosure, weather shelter or provision of water, electrical sewer or other utility services which is not placed on a foundation and is utilized for a period of less than 30 days.

3: Penalty

As provided for at SDCL 9-19-3 and SDCL 22-6-2(2), any person found to be guilty of violating any of the provisions of this Ordinance may be issued an administrative citation and/or shall be subject to a maximum punishment of a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment for a period not exceeding thirty (30) days, or by both such fine and imprisonment. Each day of temporary camping in violation of this ordinance shall constitute a separate violation. In addition, a violation of this ordinance may be subject to the nuisance abatement provisions contained in Title 93 Nuisance Ordinance of the Box Elder City Ordinances.

4 Activity Authorized:

Any non-public camping for more than three (3) consecutive nights on a residential parcel, or public camping limited to no more than three (3) camping units, occurring within the City, shall require that the property owner limit those activities in compliance with the requirements of this Ordinance unless otherwise licensed by the State of South Dakota. Any non-public campsite or public camping with one camping unit shall be located only on a residential parcel having a single family home, and shall only be for use by camping units, and shall not include the use of any temporary structure. No camping shall be permitted on any undeveloped lot, parcel, or non-residential parcel adjoining the residential parcel as defined herein, or on any other unimproved or vacant lot or nonresidential parcel.

5: Density limitations:

No temporary non-public camping activities permitted by this ordinance shall be authorize more than 19 campers to stay on any residential parcel. In addition to meeting all setback requirements stated in this ordinance, non-public camping activities shall be located at one campsite on the residential.

6: Setback from public streets, sidewalks and lot lines:

Any camping unit located within a campsite as permitted by this ordinance shall have a front setback at least twenty-five (25) feet from the back of the sidewalk or the front lot line, and shall be located so as to allow a ten (10) foot access lane to an entry door of the residence. Any camping unit allowed by this ordinance shall not be located within twenty-five (25) feet of any public Right of Way, any easement dedicated for public use, or any publicly owned property.

7: Campsite area:

The campsite area is defined as the area excluding a combination of all setback and access requirements on the subject residential parcel. All camping units, equipment, storage containers, food and beverage items, temporary sanitation facilities, cooking area and related material or equipment shall be located within this campsite area. Only one campsite area per residential parcel shall be allowed.

8: Parking:

The homeowner shall provide sufficient off-street temporary parking for all those persons provided temporary non-public camping on that residential parcel.

9: Soil and ground cover requirements:

The soil must provide sufficient slope to ensure that no drainage or runoff caused by camping activities will go onto the adjoining property. Ground cover shall be grass, landscaping or hardscape.

10: Water service and Plumbing:

No permanent separate, non-residential water supply or service facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of temporary non-public camping, the homeowner may provide temporary water service from the residence as may otherwise be permitted on a construction site by other provisions of the Box Elder City Ordinances

11: Electrical system:

No permanent separate, non-residential electrical service facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of temporary non-public camping, the homeowner may provide

a temporary electrical service as permitted on a construction site by the IBC as adopted under other provisions of the Box Elder City Ordinances.

12: Wastewater disposal, gray water disposal and portable toilets:

No permanent separate, non-residential waste water or gray water facilities shall be located outside the residence on the parcel where the campsite is located. During the period of temporary non-public camping, the homeowner may provide temporary self-contained portable toilet facilities of the type required to be provided on a construction site by other provisions of the Box Elder City Ordinances. No waste water or gray water resulting from temporary camping shall be permitted to be disposed of in any storm sewer drainpipe or other drainage.

All waste water and gray water shall be disposed of only at an approved dump station or similar facility open to the public.

13: Toilet and bathing facilities:

No permanent separate, non-residential toilet and bathing facilities shall be permitted to be located outside the residence on the parcel. All waste water or gray water resulting from any temporary toilet or bathing facilities for camping shall be disposed of only at an approved dump station or similar facility open to the public, or by the use of a temporary type facility permitted on a construction site by the IBC as adopted under other provisions of the Box Elder City Ordinances and Plumbing Code adopted by the State of South Dakota.

14: Fire protection/prevention:

The Open Fire requirements of Box Elder City Ordinance shall remain in effect at all times at the residential parcel at which any temporary non-public camping may occur. No open fire of any kind shall be permitted during the period in which a Burning Ban is in effect within the City of Box Elder.

15: Barbecue pits, fireplaces, stoves, cooking fires, et cetera:

During the period of temporary camping, only a temporary, contained fire structure of a type permitted by other provisions of Box Elder City Ordinances shall be allowed.

16: Garbage and rubbish storage, disposal and vermin control:

The homeowner shall provide the necessary temporary sanitation and garbage service of the type permitted.

19: Camping cabins:

Storage sheds, camping cabins as defined in South Dakota Administrative Rule 44.02.12.24, or any temporary structure intended for similar or like use, shall not be permitted at any temporary campsite as defined in this section.

(Y) SUPPLEMENTAL DISTRICT REGULATIONS RELATED TO RV, CAMPGROUND AND RECREATIONAL VEHICLE PARK:**(1) DEFINITION:**

A parcel of land that is intended to provide for permanent and seasonal campgrounds and recreational vehicle parks. Facilities within this designation shall be offering for rent spaces for overnight camping and for overnight parking of recreational vehicles such as camping trailers, motor homes and coaches. Any facility located within this district shall comply with all applicable laws and regulations, including any State of South Dakota Department of Health requirements for the operation of a campground, recreational vehicle park or other such facility.

Setbacks shall be the distance from any facility's property line to camping or parking sites and shall not include access roads or driveways.

Temporary RV Camping areas shall not be permitted in any residential or manufactured home district.

(2) PERMITTED USES:

Recreational vehicle park

Small retail convenience stores providing products and services normally associated with a campground or recreational vehicle park.

Recreational vehicle dumping sites which are connected to the City Waste Water Collection system and which have been approved by the Box Elder Public Works Director and appropriate fees are paid.

(3) USES PERMITTED ON REVIEW:

1. Temporary vending for a period not to exceed 14 calendar days per year in conjunction with a specific event.

(4) AREA REGULATIONS:

A campground or recreational vehicle park shall have a minimum area of two (2) acres.

Retail and temporary vending area shall not exceed a total of two thousand (2000) square feet or one percent (1%) of the gross area of the campground or recreational vehicle park, whichever is greater.

Any facility shall have a minimum front setback of twenty five (25') feet from the public right-of-way.

Any facility shall have a minimum of ten (10') feet side yard setback. If the side yard abuts a public right-of-way such as a side street it shall have a minimum side yard setback of twenty-five (25') feet. If the side yard abuts any residential zoning it shall have a minimum side yard setback of fifty (50') feet.

Any facility shall have a minimum of ten (10') feet rear yard setback. If the rear yard abuts any residential district it shall have a minimum rear yard setback of twenty five (25') feet.

Any facility shall have a minimum of one hundred (100') feet of frontage on a dedicated public right-of-way.

(5) HEIGHT REGULATIONS:

No structure shall exceed two and one-half (2 ½) stories in height.

(6) OFF STREET PARKING:

Each facility or campground within this district shall provide sufficient on- premise parking, maneuvering, and loading space so that all parking, maneuvering and loading of camping units incidental to the use of the facility shall be undertaken without the use of any public right-of-way, street, alley or any private property not a part of the facility.

For additional off-street parking regulations, see Chapter 153.102 Section (AB).

(7) UTILITY REQUIREMENTS:

Each campground, recreational vehicle park or any other such type facility located within this district shall be connected to the municipal water supply for the City of Box Elder, the Box Elder Municipal Waste Water Collection System, and will be serviced by a private waste Collection agency.

(8) SCREENING:

Each campground, recreational vehicle park or any other such type facility located within this designation, which abuts a residential district shall provide a screening in the form of a solid fence, hedge, no less than six (6') feet in height, or provide for other appropriate means of shielding the facility from the adjacent residential properties. Plans for compliance with this screening requirement shall be approved by the Planning Commission and City Council prior to beginning construction of the facility.

(9) SIGNAGE:

Total signage not exceeding one (1) square foot of surface for each one (1) lineal foot of lot frontage shall be allowed. Signs erected in conjunction with a facility permitted by this Title shall comply with any and all applicable provisions of

Chapter 154, the City Beautification and Regulation of Advertising of the Box Elder City Ordinances.

(10) FLOOD PLAIN REQUIREMENTS:

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's FIRM map shall have the first floor constructed at least 2-0" above the flood plain elevation stated on the FIRM map.

In addition, any improvements with the flood area must comply with the City of Box Elder "Flood Damage Prevention Regulations" in Chapter 151.

All mobile homes must be anchored as per the requirements of the city's flood ordinance, manufactures recommendations or as per FEMA guidelines for flood plain management whichever is more restrictive.

Any building constructed within this district, on lands located within the Flood Plain areas as shown on the City's FIRM Map, shall be subject to the additional provisions and requirements contained in the City's Flood Plain Ordinance included in Chapter 151.

(Z) SUPPLEMENTAL DISTRICT REGULATIONS RELATED TO WIND ENERGY SYSTEMS (COMMERCIAL WIND FARMS):

SECTIONS:

- (1) General Provisions
- (2) Permitted Use
- (3) Permits
- (4) Design and Installation of Commercial Wind Generator Facilities
- (5) Setbacks for Commercial Wind Energy System Facilities and Meteorological Towers
- (6) Use of Public Roads for Commercial Wind Generator Facilities
- (7) Local Emergency Services for Commercial Wind Generator Facilities
- (8) Regulations for Rural (Non-Commercial) and Small Residential Wind Turbines
- (9) Remedies
- (10) Variances
- (11) Penalties for Violation of Ordinance
- (12) Severability and Separability

(1) GENERAL PROVISIONS:

- (a) Scope and Purpose
- (b) Definitions
- (c) Application

(a) SCOPE AND PURPOSE:

The purpose of this Title is to ensure that the placement, construction and permitting of any Wind Energy System (WES) facility that is within

the jurisdictional boundaries of the City of Box Elder, is consistent with the City's land use policies and is subject to reasonable conditions that will protect the public health and safety.

(b) DEFINITIONS

APPLICANT: Any person filing an application under this Title.

HUB HEIGHT: The distance measured from the surface of the tower foundation to the height of the Wind Turbine hub, to which the blade is attached.

COMMERCIAL WIND ENERGY SYSTEM FACILITY (CWES) (WIND FARM): An electric generating facility, placed on 80 acres or more, whose main purpose is to supply electricity; consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

ENGINEERING CERTIFICATION: For all commercial wind generators or meteorological towers, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the commercial wind generators or meteorological towers is within accepted professional standards, given local soil and climate conditions.

FACILITY OWNER: The entity or entities having an equity interest in the Wind Generator Facility, including their respective successors and assigns.

METEOROLOGICAL TOWER: For the purposes of this Wind Energy Conversion System Ordinance, meteorological towers (temporary or permanent) are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting or proposed WECS. Meteorological towers do not include towers and equipment used by airports, the South Dakota Department of Transportation, National Weather Service or other similar applications to monitor weather conditions. Meteorological Towers, whether temporary or permanent must meet FAA requirements.

NON-PARTICIPATING LANDOWNER: Any landowner except those on whose property all or a portion of a Wind Generator Facility is located pursuant to an agreement with the Facility Owner or Operator.

OPERATOR: The entity responsible for the day-to-day operation and maintenance of the Wind Generator Facility.

OCCUPIED BUILDING: A residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.

RURAL WIND TURBINES: Small to medium size wind energy systems installed for on-site use on agricultural zoned property for supplying electricity or other uses, not to exceed 120 feet in height.

SMALL RESIDENTIAL WIND TURBINE/ SMALL WIND ENERGY SYSTEM (SWES): Small wind energy systems installed to reduce the on-site consumption of utility supplied electricity. Tower height for property sizes between 3+ acres to 10 acres the tower height shall be

limited to 60 ft. and property sizes of greater than 10 acres up to 40 acres shall have a maximum tower height of 80 ft.

TURBINE: The parts of the WES including the blades, generator and tail.

TURBINE HEIGHT: The distance measured from the surface (grade) of the tower foundation to the highest point of the turbine rotor plane.

TOWER HEIGHT: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

WIND TURBINE: A wind Generator conversion system that converts wind Generator into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

WECS - WIND ENERGY CONVERSION SYSTEM: An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operates by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid. The term WECS is synonymous for wind turbine or wind generator.

(c) APPLICATION:

This Title applies to all Wind Generators, Wind Generator Facilities and temporary or permanent Meteorological Towers proposed to be constructed or placed after the effective date of the Title, and also applies to stand-alone Wind Turbines constructed primarily for residential or rural use.

(2) PERMITTED USE:

(a) Permitted Use

(a) PERMITTED USE:

A Wind Generator Facility or Meteorological Tower shall be considered a Permitted Use if approved by the City of Box Elder Governing Board with proper documentation required by this Title.

(3) PERMITS:

(a) Permit Requirement

(b) Permit Application

(a) PERMIT REQUIREMENT:

1. No Wind Generator Facility, an addition of a Wind Turbine to an existing Wind Generator Facility or Meteorological Tower shall be constructed or located within the Jurisdictional Boundaries of the City of Box Elder, unless a permit has been issued to the Facility Owner or Operator approving construction of the facility under this Ordinance.
2. The permit application or amended permit application shall be accompanied with a fee in the amount of \$250.00, for all Commercial

Wind Generator Facilities. Small Residential Wind Turbines are exempt from permit fees; however, all wind generators require a building permit for the entire structure and equipment, not to exceed \$1,500.00 per unit.

3. Any physical modification to an existing and permitted Wind Energy System or Wind Energy System Facility as defined in this ordinance that materially alters the size, type and number of Wind Turbines or other equipment shall require a permit modification under this ordinance. Like kind replacements shall not require a permit modification.
4. Commercial Wind Energy System Facilities and Meteorological Towers shall only be placed on agricultural zoned property of 40 acres or more.

(b) PERMIT APPLICATION:

1. The permit application shall demonstrate that the proposed Commercial Wind Energy System Facility, (CWES) or Meteorological Tower, will comply with this Title.
2. The application shall contain the following:
 - a. A narrative describing the proposed Commercial Wind Energy System Facility or Wind Energy Conversion System, including an overview of the project; the project location; the approximate generating capacity of the Commercial Wind Energy System Facility; the approximate number, representative types and height or range of heights of Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities. Meteorological Tower Application must include a decommissioning time table for data collection. Temporary Meteorological Towers will be permitted for a maximum duration of 5 years.
 - b. An affidavit or similar evidence of agreement between the property owner and the Facility Owner or Operator demonstrating that the Facility Owner or Operator has the permission of the property owner to apply for necessary permits for construction and operation of the Commercial Wind Energy System Facility or a Meteorological Tower.
 - c. Identification of the properties on which the proposed Commercial Wind Energy System Facility or Meteorological Tower will be located, and the properties adjacent to and within 1,000 foot radius where the Commercial Wind Energy System Facility will be located.
 - d. A site plan showing the planned location of each Wind Turbine (or Meteorological Tower), property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Commercial Wind Energy System Facility to the substation(s), ancillary equipment, buildings, and structures, including meteorological towers,

- associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
- e. Documents related to decommissioning of all equipment.
 - f. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the City of Box Elder to ensure compliance with this Ordinance.
 - g. Provide a copy of the agreement between the Facility Owner and the affected local power company, (if applicable).
3. Within (30) days after receipt of a permit application, Planning & Zoning Office or designee will determine whether the application is complete and advise the applicant accordingly.
 4. The applicant must appear before the City of Box Elder Common Council at the regularly scheduled meeting. The applicant shall participate in the hearings and be afforded an opportunity to present the project to the public and the City of Box Elder Common Council, and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.
 - a. Neighbors within a 1000 feet of the property of the proposed wind generator or Meteorological Tower must be Notified by certified mail at least 14 calendar days in advance of any City of Box Elder Common Council Meeting along with a return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction and also:
 - i) Given the telephone number and address of the facility owner or operator; and
 - ii) Informed of his or her right to participate in the City of Box Elder Common Council proceedings.
 - b. A list of the property owners who received the notice, together with copies of the certified receipts for the notice sent to the listed property owners.
 5. Within (30) days after the close of hearing or at the hearing of the City of Box Elder Common Council will make a decision whether to issue or deny the permit application.
 6. Throughout the permit process, the Applicant shall promptly notify City of Box Elder of any changes to the information contained in the permit application.
 7. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

(4) DESIGN AND INSTALLATION OF COMMERCIAL WIND GENERATOR FACILITIES:

- (a) Design Safety Certification
- (b) Construction Code
- (c) Controls and Brakes
- (d) Electrical Components
- (e) Visual Appearance; Power Lines

- (f) Warnings
- (g) Climb Prevention/Locks
- (h) Decommissioning

(a) DESIGN SAFETY CERTIFICATION:

The design of the Commercial Wind Energy System Facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit an Engineering Certification for all commercial wind generators or meteorological towers, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the commercial wind generators or meteorological tower is within accepted professional standards, given local soil and climate conditions.

(b) CONSTRUCTION CODE:

To the extent applicable, the Wind Generator Facility shall comply with the 2009 International Building Construction Code.

(c) CONTROLS AND BRAKES:

All Wind Generator Facilities shall be equipped a electronic shut down or with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and/or mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

(d) ELECTRICAL COMPONENTS:

All electrical components of a Commercial Wind Energy System Facility, Rural Wind Generator and Small Residential Wind Turbines shall conform to the National Electric Code and to relevant and applicable local, state and national codes, including the National Electric Code, and relevant and applicable international standards; along with the standards set forth by the affected local power company.

(e) VISUAL APPEARANCE; POWER LINES:

Wind Turbines shall be a non-obtrusive color such as white, off-white or gray. Commercial Wind Energy System Facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety, and/or the City of Box Elder Common Council.

Wind Turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, Facility Owner and Operator.

On-site transmission and power lines between Wind Turbines shall, to the maximum extent practicable, be placed underground.

(f) WARNINGS:

A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.

(g) CLIMB PREVENTION/LOCKS:

Wind Turbines and meteorological towers shall not be climbable up to fifteen (15) feet above ground surface. All access doors to Wind Turbines and/or meteorological towers and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

(h) DECOMMISSIONING:

Any and all WES (Wind Energy Systems) or meteorological towers which are not used for twelve successive months shall be deemed abandoned and shall be dismantled, including excavating and removing concrete footings to a depth of 4 feet and all materials must be removed from the property at the expense of the facility owner or property owner.” Facility owners of Commercial Wind Energy System Facilities must provide a copy of financial surety and or an insurance certificate which will cover the decommissioning of each WECS at the facility or wind farm, to the City of Box Elder Finance Office. For every Wind Energy System Facility (WECS) and any Meteorological Tower (including Temporary Meteorological Tower) that is decommissioned or removed within the jurisdictional boundaries of the City of Box Elder, the facility or tower operator and/or owner must notify in writing to the City of Sturgis Director of Community Development their intent to decommission or remove the System or Tower, within 14 calendar days of the date the equipment and/or tower is to be decommission or removed by certified mail and must include a copy of the permit along with the written notification.

(5) SETBACKS FOR COMMERCIAL WIND ENERGY SYSTEM FACILITIES AND METEOROLOGICAL TOWERS:

- (a) Occupied Buildings
- (b) Property Lines
- (c) Public Roads
- (d) Applicable FAA Regulations

(a) OCCUPIED BUILDINGS:

Wind Turbines shall be set back from the nearest Occupied Building a

distance not less than 1.1 times the Turbine Height. The setback distance shall be measured from the center of the Wind Turbine base to the nearest point on the foundation of the Occupied Building. Wind Turbines or meteorological towers shall be set back from the nearest Occupied Building located on a Non-participating Landowner's property a distance of not less than five (5) times the Hub Height, (or in the case of a meteorological tower, the entire height) as measured from the center of the Wind Turbine base to the nearest point on the foundation of the Occupied Building.

(b) PROPERTY LINES:

All Wind Turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements per related zoning district or 1.1 times the Turbine Height or the total height of the meteorological tower, whichever is greater. The setback distance shall be measured to the center of the Wind Turbine or the meteorological tower base.

(c) PUBLIC ROADS:

All Wind Turbines shall be set back from the nearest public road a distance of not less than 1.1 times the Turbine Height or for meteorological towers, the total height of the tower, as measured from the right-of-way line of the nearest public road to the center of the Wind Turbine or meteorological tower base or the minimum setbacks stated for the zoning district, whichever is greater.

(d) APPLICABLE FAA REGULATIONS:

Wind Energy System Facilities/Wind Farms and meteorological towers must comply with applicable FAA regulations, including any necessary approvals for installations close to commercial or private airports including the City of Rapid and Ellsworth Air Force Base.

(6) USE OF PUBLIC ROADS FOR COMMERCIAL WIND GENERATOR FACILITIES:

(a) Use of Public Roads

(a) USE OF PUBLIC ROADS:

The Applicant shall identify all state and local public roads to be used within the jurisdictional boundaries of the City of Box Elder to transport equipment and parts for construction, operation or maintenance of the Commercial Wind Energy System Facility. The City of Box Elder Highway Authority or a qualified third party engineer authorized by the City of Box Elder shall document road conditions prior to construction. The same parties shall document road conditions again thirty (30) days after

construction is complete or as weather permits.

The City of Box Elder will require that the road(s) to be used, be bonded by the applicant.

Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense and repairs must be approved by the City of Box Elder Highway Authority.

The Applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads either through a bond or a irrevocable letter of credit.

(7) LOCAL EMERGENCY SERVICES FOR COMMERCIAL WIND GENERATOR FACILITIES:

(a) Local Emergency Services

(a) LOCAL EMERGENCY SERVICES:

The Applicant shall provide a copy of the project summary and site plan also to local emergency services, including volunteer Fire Department(s).

Upon request, the Applicant shall cooperate with the City of Box Elder and other emergency services to develop and coordinate implementation of an emergency response plan for the Commercial Energy System Facility or meteorological tower.

(8) REGULATIONS FOR RURAL (NON-COMMERCIAL) AND SMALL RESIDENTIAL WIND TURBINES:

- (a) Purpose
- (b) Permitted Use

(a) PURPOSE:

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

(b) PERMITTED USE:

Small wind energy systems shall be a permitted use on any lot consisting of at least three (3) acres zoned Agricultural, Commercial or Highway Service per the Zoning District titles and where structures are allowed; subject to certain requirements as set forth below:

1. Tower Height: For property sizes between 3+ acres to 10 acres

- the tower height shall be limited to 60 ft. and property sizes of greater than 10 acres up to 39 acres shall have a maximum tower height of 80 ft. and property from 40 acres or more for Rural Wind Generators, the maximum tower height is 120 ft.
2. Set-back: No part of the wind system structure, including guy wire anchors, may extend closer than 1.1 times the hub height in feet to the property boundaries or structures of the installation site.
 3. Noise: Small wind energy systems shall not exceed 55 dBA for lot sizes of 3+ to 9+ acres, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
 4. Approved Wind Turbines: Small wind turbines and rural wind generators must have been approved under the Emerging Technologies program recognized by the American Wind Energy Association.
 5. Compliance with 2009 International Building Code: Building permit applications for small and rural wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings.
 6. Compliance with National Electric Code: Building permit applications for small and rural wind energy systems shall meet the National Electrical Code and the local power companies requirements.
 7. Utility Notification: No small or rural wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement. It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.
Small wind energy systems shall be a permitted use on any lot consisting of at least three (3) acres zoned Agricultural, Commercial or Highway Service per zoning district title and where structures are allowed; subject to certain requirements as set forth below:
 - a. Tower Height: For property sizes between 3+ acres to 10 acres the tower height shall be limited to 60 ft. and property sizes of greater than 10 acres up to 39 acres shall have a maximum tower height of 80 ft. and property from 40 acres or more for Rural Wind Generators, the maximum tower height is 120 ft.
 8. Evidence: that the proposed height of the wind turbine tower does not exceed the height recommended by the manufacturer or distributor of the system.

(9) REMEDIES:**(a) REMEDIES:**

No person shall violate or fail to comply with or take any action which is contrary to the terms of the ordinance, or any permit issued under this Title, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Title or any permit issued under the Title.

If the City of Box Elder determines that a violation of this Title or the permit has occurred; The City of Box Elder shall provide written notice to any person alleged to be in violation of this Title or permit. If the alleged violation does not pose an immediate threat to public health or safety, the City of Box Elder and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.

If after thirty (30) days from the date of the notice of violation the City of Box Elder determines, in its discretion, that the parties have not resolved the alleged violation; the City of Box Elder may institute civil enforcement proceedings or any other remedy at law to ensure compliance with the Ordinance or permit.

(10) VARIANCES:**(a) Variance Procedure****(a) VARIANCE PROCEDURE:**

The City of Box Elder Common Council shall hear and decide appeals and requests for variances from the terms of this ordinance. The Council shall base its determination on technical justifications, and has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of this Title.

1. Conditions In granting variances, modifications, and approvals for the wind generator application, the City of Box Elder Common Council may require such conditions as will, in its judgment, secure substantially the objectives or the standards or requirements so varied, modified, or approved. In granting any variance, the City of Box Elder Common Council shall prescribe conditions that it deems necessary to, or desirable for the public interest. These conditions may include, without being limited to personal, surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments.

In making its findings, as required herein, the City of Box Elder Common Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work near the proposed wind

generator facility site and the probable effect of the proposed wind generator facility upon living conditions in the vicinity.

That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his/her land.

2. Application Required: Applications for any such variance shall be submitted in writing by the Facility Owner and/or property owner at the time when the wind generator facility application is filed for consideration by the City of Box Elder Common Council stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the City of Sturgis Common Council in the analysis of the proposed wind generator project. The plans for the proposed wind generator or meteorological tower shall include such covenants, restrictions other legal provisions necessary to guarantee the full achievement of the proposed plan.

Applications for variance shall be considered with the wind generator facility application, and the City of Box Elder Common Council will render its decision at the hearing or no later than thirty (30) days after the hearing at which the preliminary package and request for a variance was submitted. All variances must be approved by the City of Box Elder Common Council.

3. Requirements for granting Variance: The City of Box Elder Common Council shall have the authority to give a Variance, the person claiming the Variance has the burden of showing: That the granting of the Variance will not be contrary to the public interest; That the literal enforcement of the Ordinance will result in unnecessary hardship; That by granting the Variance contrary to the provisions of the Ordinance the spirit of the ordinance will be observed; and That by granting the Variance, justice will be done.
4. Report to the City of Box Elder Common Council: For each application for a Variance, the Facility Owner and/or property owner will coordinate with the Director of Community Development and City of Box Elder Common Council to set a date and time for a public hearing regarding a variance request.

(11) PENALTIES FOR VIOLATION OF THIS TITLE

(a) Penalties for Violation

(a) PENALTIES FOR VIOLATION:

Violation of this Title shall be a Class 2 misdemeanor, and each day's violation shall constitute a separate offense. In addition to the penalty set forth above, the City of Box Elder Common Council may immediately suspend all of the permits or the construction activities of a wind generator facility which does not meet the requirements of the City of Box Elder: Wind Generator Ordinance. If a suspension occurs, the reasons for such suspension shall be clearly stated by the City of Box Elder Common Council. The suspension on wind generator facility permits or construction activities shall be lifted by the City of Box Elder Common Council upon satisfactory proof that the reasons which led to the suspension have been remedied.

(12) SEVERABILITY AND SEPARABILITY:

(a) Severability and Separability

(a) SEVERABILITY AND SEPARABILITY:

Should any Article, Section, Sub-section or Provision of the Wind Energy System Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the Wind Energy System section of this Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

(AA) RESERVED:

(AB) MINIMUM OFF-STREET PARKING REQUIREMENTS:

(A) Off-Street Parking Requirements, General:

In all districts, at any time any building or structure is erected or enlarged, altered or increased in capacity, there shall be provided hard surfaced off-street parking spaces for automobiles in accordance with the following requirements:

1. All church structures existing at the effective date of this ordinance shall be allowed to increase their present seating capacity by twenty five (25) percent without increasing their present off-street parking facilities.
2. Off-street parking for other than residential use shall be either on the same lot or within six hundred feet of the building it is intended to serve measured from the nearest point of the building to the nearest point of the off-street parking lot, provided, however, churches may establish joint parking facilities not to exceed fifty (50) percent of the required spaces, with institutions and agencies that do

- not have a time conflict in parking demand. The joint parking facilities shall be located no further than four hundred (400) feet from the church sanctuary.
3. Residential off-street parking space shall consist of a hard surface parking area, driveway, garage or combination thereof and shall be located on the lot they are intended to serve.
 4. For uses not specifically mentioned herein, off-street parking requirements shall be interpreted by the governing body.
 5. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
 6. Off-street parking existing at effective date of these regulations in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
 7. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses computed separately.
 8. The required off-street parking shall be for occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale or the repair of vehicles on such parking area is prohibited unless otherwise permitted by the zoning district.
 9. Every company car, truck, tractor and trailer normally stored at the plant site shall be provided with off-street parking space in an area reserved for the use as determined by the governing body.
 10. In cases of dual functioning of off-street parking where operating hours do not overlap, the governing body may grant an exception.
 11. The minimum number of off-street parking spaces shall be determined in accordance with the following:

TABLE 153.102 (A)
TABLE OF PARKING SPACES

<u>REQUIRED USES</u>	<u>PARKING SPACES REQUIRED</u>
Automobile repair, wrecking, junk or salvage yard which offers for sale to the public any new or used merchandise.	One (1) space for each two (2) employees, plus one (1) space for each ten thousand (10,000) square feet of lot area, or two (2) spaces for each one hundred (100) square feet of floor area, whichever is the greater.
Banks, business or professional offices.	One (1) per three hundred (300) square feet of usable floor area, plus one (1) per each three (3) employees.
Barber shop or beauty parlor.	Two (2) per barber or beauty shop chair.
Boarding or rooming house.	One (1) space for each three (3) boarders. One (1) for each two (2) guests provided overnight accommodations.
Bowling Alleys.	Two and one half (2 1/2) per alley.
Churches/Places of Worship	One (1) per four (4) seats; or one (1) per each seventy-two (72") inches of pew space, or one (1) per thirty (30) square feet of usable floor area of auditorium, whichever is greater.
Commercial recreation uses.	One (1) per three (3) patrons, based on the design capacity of the facility
Commercial or trade schools.	One (1) per three (3) students plus two (2) per three (3) employees.
Country clubs.	One (1) per five (5) members.
Dormitories, fraternity or sorority.	One (1) per each three (3) permanent residents.
Dwellings (single, two-family and semi-detached).	Two (2) per dwelling unit.
Dwellings, (multiple-family and attached).	One and one-fourth (2 1/2) spaces per dwelling unit for the first twenty (20) units, plus one (1 1/2) space for each dwelling unit exceeding twenty (20) units.
Establishments for sale and consumption, on the premises, of beverages, food or refreshment.	One (1) per each employee, plus one (1) per two hundred (200) square feet of usable floor space.
Gasoline service stations w/repair.	One (1) parking space for each employee, plus two (2) spaces for each service bay.
Gasoline stations without repair/Convenience Store	One (1) parking space for each employee, plus (1) space for each 200 square feet of usable floor space.
Governmental office buildings.	One (1) per three hundred (300) square feet of usable floor area, plus one (1) per each three (3) employees. Every governmental vehicle shall be provided with a reserved off-street parking space.

**TABLE 153.102 (A)
TABLE OF PARKING SPACES**

<u>REQUIRED USES</u>	<u>PARKING SPACES REQUIRED</u>
Homes for the aged, sanatoriums, convalescent or nursing homes.	One (1) space for each four (4) patients beds; plus one (1) space for each staff doctor, plus one (1) space for each two (2) employees including nurses.
Hospitals.	One (1) per three (3) patient beds, exclusive of bassinets, plus one (1) space for each two (2) employees including nurses on the maximum working shift, plus adequate area for parking emergency vehicles.
Hotel	One (1.25) per each room or suite, plus two (2) per ea. three (3) employees.
Apartment/Multi-Family Complexes	One & one-quarter (1.25) parking space for each individual apartment unit.
Industrial Establishments	One (1) per two (2) employees on the combined two largest successive shifts, plus adequate parking space for customer and visitor vehicles as determined by the governing body.
Library	One (1) for each four hundred (400) square feet of floor space.
Medical Clinics	Three (3) patient parking spaces per staff doctor; plus one (1) per staff doctor; plus two (2) per three (3) other employees.
Mortuaries or funeral parlors	Five (5) spaces per parlor or chapel unit, or one (1) per four (4) seats, whichever is greater.
Motels and tourist courts	One (1.25) per guest bedroom.
Private clubs, lodge or union headquarters	One (1) per three (3) members based on the design capacity of the facility.
Retail stores, supermarkets, department service establishments except as otherwise specified herein.	One (1) per two hundred (200) square feet of retail floor space, plus one (1) per employee.
Elementary, junior high and the equivalent private or parochial schools	Two (2) spaces per three (3) teachers and employees normally engaged in or about the building or grounds; plus one (1) space for each one hundred and fifty (150) square feet of seating area, including aisles, in any auditorium.

**TABLE 153.102 (A)
TABLE OF PARKING SPACES**

<u>REQUIRED USES</u>	<u>PARKING SPACES REQUIRED</u>
Senior high schools and the equivalent private or parochial schools.	Two (2) spaces per three (3) teachers and employees normally engaged in or about the building or grounds, plus one (1) space per five (5) students, or one (1) space for each one hundred and fifty (150) square feet of seating area, including aisles, in any auditorium, gymnasium or cafeteria intended to be used as an auditorium, whichever is the greater.
Kindergartens, day schools and the equivalent private or parochial schools.	Two (2) parking spaces per three (3) teachers and employees normally engaged in or about the building or grounds, plus one (1) off-street loading space per eight (8) pupils.
Shopping Centers	There shall be a ratio of four (4) square feet of parking (including driveways required for ingress and egress and circulation) to each one (1) square foot of store area.
Stadiums and sports, recreational areas	One (1) per four (4) seats or twelve (12) feet of benches.
Swimming Pools (Indoor or Outdoor)	One (1) per thirty (30) square feet of water area.
Theaters, auditoriums, and places of assembly with fixed seats.	One (1) per three (3) seats.
Theaters, auditoriums and places of assembly without fixed seats.	One (1) per three (3) people based on the design capacity of the structure.
Wholesale establishments and business services.	One (1) for every fifty (50) square feet of customer service area, plus two (2) per three (3) employees based on the design capacity of the largest shift.
Handicap parking spaces (all establishments)	One (1) for every twenty (20) parking spaces or as per Federal ADA regulations, which ever is greater. At a minimum one (1) space shall be provided.

(B) Parking Requirements for Uses not Specified:

1. Where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the planning director. Such determination may be based upon Parking Generation published by the Institute of Transportation Engineers (ITE).
2. Where new construction is proposed in a commercial or industrial district, but no definite use is specified, parking requirements shall be calculated as follows:

- a. In any Commercial district: 5 parking spaces per 1,000 square feet gross floor area;
 - b. Industrial district: 1 $\frac{3}{4}$ parking spaces per 1,000 square feet gross floor area.
3. When a use is to be initiated or changed in any vacant or occupied building or portion thereof the parking required for the combined uses shall be reviewed by the planning department, based upon this title and Parking Generation published by the Institute of Transportation Engineers (ITE). The determination of the planning department shall establish the total number of parking spaces required.

(C) Off-Street Parking Lot Layout, Construction and Maintenance:

Wherever the required off-street parking requires the building of a parking lot, and wherever a parking lot is built, such parking lot shall be laid out, constructed of hard surface materials and maintained in accordance with the following regulations:

1. Except for parcels of land devoted to one (1) and two (2) family uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
2. Each parking space shall be not less than two hundred (200) square feet in area and shall be a definitely designated stall adequate for one motor vehicle.
3. In any determination of parking requirements as set forth in this section, where the resultant figure contains a fraction, any fraction less than one-half may be dropped and any fraction one-half or more shall be counted as one (1) parking space.
4. Clearly defined driveways used for ingress and egress shall be confined to and shall not exceed thirty (30) feet in width, exclusive of curb returns.
5. All areas devoted to permanent off-street parking as required under this section shall be of a hard-surface construction of either asphalt or concrete and maintained in such a manner that no dust will result from continuous use.
6. The parking lot shall be properly drained to eliminate surface water, and where required have the proper storm drainage system installed or retention area, if storm drainage is not accessible.
7. Where the parking lot abuts side lot lines of a Residential District, there shall be established a setback line ten (10) feet from such side lot line.
8. Where the parking lot is contiguous to a Residential District which has common frontage in the same block with the parking lot, there shall be established a setback line of twenty five (25) feet from the ROW lot line. The ground in the front buffer strip shall be prepared and shall be planted with trees, shrubs and grass
9. Where the parking lot lies across the street and opposite a Residential District, wherein the lots front on such street, there shall be established a setback line twenty five (25) feet from the ROW lot line. The ground in the front buffer strip shall be prepared and shall be planted with trees, shrubs and grass.
10. Where the parking lot abuts rear property lines of a Residential District, there shall be established a setback line twenty-five (25) feet from the rear lot line.

- The ground in the front buffer strip shall be prepared and shall be planted with trees, shrubs and grass
11. Where parking is to be provided in the front yard of a multiple-family dwelling, there shall be established a setback line fifteen (15) feet from the ROW lot line. The land between the setback line and the lot line in a parking lot is for the purpose of this Ordinance called a buffer strip. The ground in the front buffer strip shall be prepared and shall be planted with trees, shrubs and grass.
 12. Plans for the layout of a parking lot(s) containing more than twenty (20) parking spaces, must be approved by the Planning Commission.
 13. The governing body shall have the authority to approve off-street parking in any district which is more restrictive than that required for the major land use it is intended to serve subject to the preceding conditions. The following conditions shall also apply:
 - a. The parking lot shall not have access from the more restrictive district.
 - b. All sides of the lot, except those openings for ingress and egress shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) nor more than six (6) feet. Such fence, wall or hedge shall be maintained in good condition. Bumper stops shall be provided so as to prevent any vehicle from projecting over the buffer strip.
 - c. The intensity of light and arrangement of reflectors shall be such as not to interfere with Residential Districts.
 - d. No sign of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the use of the lot. Only non-intermittent white lighting of signs shall be permitted.

(D) Storage and Parking of Trailers and Commercial Vehicles:

Commercial vehicles and trailers of all types, shall not be permanently parked or stored on any lot occupied by a dwelling or on any lot in any Residential or Manufactured Home District except in accordance with the following provision:

1. Not more than one commercial vehicle per family living on the premises, which does not exceed two (2) tons rated capacity or three (3) axels, shall be permitted; and in no case shall a commercial vehicle, used for hauling gasoline, liquefied petroleum, hazardous material, explosives or similar products be permitted.

(E) Off-Street Loading and Unloading Requirements:

In all districts and on the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage warehouse goods, display, a department store, a wholesale store, a market, a hotel, a hospital or other uses similarly involving the receipt or distributions of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading service adjacent to the opening used for loading and unloading in order to avoid undue interference with public use of the streets or alleys.

Off-street loading and unloading spaces shall be provided as follows:

1. One (1) off-street loading and unloading space shall be provided for buildings up to and including ten thousand (10,000) square feet of floor area, plus one additional off-street loading and unloading space for each additional twenty thousand (20,000) square feet of floor area up to and including one hundred thousand (100,000) square feet.
2. There shall be provided an additional off-street loading and unloading space for each additional forty thousand (40,000) square feet of floor area in excess over one hundred thousand (100,000) square feet.
3. Where trailer trucks are involved, such loading and unloading space shall be an area not less than twelve (12) feet by one-hundred (100) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.
4. All areas devoted to permanent off-street loading and unloading as required under this section shall be of a sealed-hard surface construction, and shall be maintained in such a manner that no dust will result from continuous use.

153.103 NON-CONFORMING USE of LAND or STRUCTURES:

(A) Continuance of Non-Conforming Uses:

Any otherwise lawful use of land or structure existing at the time of adoption of these regulations may be continued, maintained, and repaired except as otherwise provided.

Maintenance, repairs, and structural alterations may be permitted to be made to nonconforming structures or to a building housing a nonconforming use with approved permits.

(B) Extension of Non-Conforming Uses in Structures:

Except as otherwise required by law, a structure or use legally established prior to the adoption date of this chapter may be maintained unchanged. In other than criminal proceedings, the owner, occupant, or user shall have the burden to show that the structure, lot, or use was lawfully established.

(C) Existing Recorded Non-Conforming Lots:

Where there are existing recorded lots which do not meet minimum lot size requirements and are under separate ownership, including lot area, lot width and lot length, residential buildings may be constructed as long as side yards are not less than five feet wide and the rear yard is not less than 15 feet deep. Front yard requirements must be met. However, no recorded lot shall be divided into two or more lots unless the resulting lots conform to all size regulations of the zoning district in which the lot is located.

(D) Termination of Non-Conforming Uses:

Except as hereinafter provided, a nonconforming use that has been abandoned or discontinued for more than six (6) months (One-hundred-eighty -180 days), shall not hereafter be reestablished. In the event of such discontinuance or abandonment for more than six (6) months, the Planning & Zoning Office shall give notice to the property owner by registered or certified mail that the nonconforming use is to be eliminated within a time frame set by the Common Council in each instance.

(E) Destruction, Damage, or Obsolescence of Structure:

The right to operate and maintain any nonconforming use shall terminate whenever the structure or structures in which the nonconforming use is operated and maintained are damaged, destroyed, or become obsolete or substandard beyond the limits hereinafter established for the termination of nonconforming structures.

(F) Enlargement or Extension of Non-conforming Structures:

Except as provided, any nonconforming use shall not be enlarged or extended. A nonconforming structure in which only permitted uses are operated may be enlarged or extended with approved permits if the enlargement or extension can be made in compliance with all of the provisions of this chapter established for structures in the zoning district in which the nonconforming structure is located.

(G) Restoration of Damaged Non-Conforming Structures:

A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than 50% of its replacement cost may be restored, provided restoration is completed within one year of the date of damage.

(H) Changes in Non-Conforming Uses:

A change of use of a nonconforming use of a structure or parcel of land shall not be made except to that of a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use.

(I) Open Land Non-Conforming Use Of:

All additions to nonconforming structures and parking areas shall conform to the requirements of this chapter. Additions to structures housing nonconforming uses that increase the area of a nonconforming use shall not be made.

(J) Platted parcels of land in existence prior to January 1, 2016 will be grandfathered in, for the purpose of replacing or upgrading an existing

Manufactured Home located on said parcel of land.

Residents are encouraged to install a newer Manufactured home as defined at the beginning of Chapter 153. However, the grandfather clause does permit existing manufactured homes to be removed and replaced on parcels as described above.

Replacement homes shall be twenty (20) or fewer years of age, and may not be less than the sixteen (16) feet in width, as defined under the definition of a Manufactured/Mobile home.

The structure however, shall be intended to be a single-family dwelling, designed to be a permanent residence, that is manufactured after January 1, 1994, and meets or exceeds the 1994 Federal Manufacture Home Construction and Safety Act (42 U.S. C. Sec. 5401, 24 CFR Part 3280), commonly known as HUD (U.S. Department of Housing and Urban Development) Code.

ADMINISTRATION AND ENFORCEMENT

153.104 BOARD OF ADJUSTMENT:

The following regulations are supplemental or addition to Title 99.

- (A) The establishment of a "Board of Adjustment," hereafter referred to as the "Board" or "The Planning Commission" is hereby authorized. The Board shall be composed of the Box Elder City Planning Commission.

The Planning Commission Chair shall act as chairman of the Board and the Planning Director shall act as secretary. The Board shall meet at the call of the chairman, and at such other items as the Board may determine at a fixed time and place. All meetings of the Board 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 City Finance Office and shall be a public record. It shall have the power to call on any other departments for assistance in the performance of its duties, and it shall be the duty of such other departments to render all such assistance as may be reasonably required.

"In the case of all appeals, the concurring vote of at least two-thirds of the members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance."

- (B) The Board may adopt rules of procedure. Meetings of the Board shall be held

at the call of the Mayor or at such other times as the Board may determine.

- (C) The Chairperson may administer oaths and compel the attendance of witnesses by subpoena. The Board shall keep minutes of its proceedings, showing the vote upon each question, and shall keep records of the examinations and other official actions, all of which shall be public record.
- (D) The Board has the authority to compel the attendance of witnesses at hearings and to administer oaths and in the furtherance of their duties shall have the following powers:
 - (1) The Board shall have the power to hear and decide appeals wherein it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official.
 - (2) To hear and decide, in accordance with the provisions of this chapter, requests for special exceptions to or for interpretation of the zoning map.
 - (3) Where there are practical difficulties or unnecessary hardships of carrying out the strict letter of this chapter in any way, the Board shall have the power, in passing upon appeals, to authorize such Variance from the terms of this chapter as will not be contrary to the public interest and so that the intent of the chapter shall be observed and substantial justice done.
 - (4) Study and report on all proposed amendments to this Ordinance; further, to review annually this Ordinance and on the basis of such review, suggest amendments thereto.

153.105 VARIANCES GENERAL:

- (A) The purpose of the variance is to modify the strict application of the specific requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle that is preventing an owner from using his lot as the zoning regulations intended, while still meeting the intent of the Ordinance.
- (B) After a ruling by the Planning Director, a property owner may make application to the Board for a variance. The application shall be submitted to the Planning Director. The application shall consist of an application form, a non-refundable variance application fee, and such supporting information as deemed appropriate by the Planning Coordinator.

(C) Application:

An application shall be filed with the governing body for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within three hundred (300) feet, and any other material pertinent to the request which the governing body may require.

The person requesting the variance has the burden of showing:

- (1) That the granting of the variance will not be contrary to the public interest.
- (2) That the literal enforcement of the chapter will result in unnecessary hardship.
- (3) That by granting the variance contrary to the provisions of the chapter, the spirit of the chapter will be observed.
- (4) That by granting the variance, substantial justice will be done.
- (5) Baring the cost of notification required to inform landowners in the region of the proposed variance. The form and content of said notice shall be as prescribed by the Board and/or Planning Director.

(D) Public Hearing:

The board shall hold a public hearing on the variance request, having first given ten days notice of the time and place of such hearing by publication in the city's legal newspaper. The Board shall consider and rule on the variance within 30 days of such public hearing and in accordance with the standards provided below.

(E) Standard for Variances:

In granting a variance, the Board shall ascertain that the following criteria are met:

- (1) Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography, or siting) fully described in the findings of the Board, do not apply generally in the zoning district.
- (2) Variances shall not be granted to allow a use otherwise excluded from the particular zoning district in which the use is requested.

- (3) For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of all reasonable use of his or her land. Mere loss in value shall not justify a variance; there must be deprivation of beneficial use of land.
- (4) Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.
- (5) The granting of any variance shall be in harmony with the general purposes and intent of this Ordinance and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the city's comprehensive plan.

(F) Requirements for the Granting of a Variance:

Before the Board shall have the authority to grant a variance, the person claiming the variance has the burden of showing:

1. That the granting of the permit will not be contrary to the public interest.
2. That the literal enforcement of the Ordinance will result in unnecessary hardship.
3. That by granting the permit contrary to the provisions of the Ordinance, the spirit or intent of the Ordinance will be observed.
4. That by granting the permit / substantial justice will be done.

Any person aggrieved by any ruling or decision of the Board may appeal said ruling or decision to the Council. Said appeal must be made in writing to the Planning Director within 14 days of the Board's ruling.

(G) Court Review of Board:

1. Any person / firm or corporation aggrieved by any decision of the Board may present to the court of competent jurisdiction a petition fully verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality.

Such petition shall be presented to the court within thirty (30) days after publication, in the City's legal newspaper/of the minutes of the board action. Such petition shall not be filed with respect to the decision of the Building Inspector or any administrative officer without recourse to the Board.

2. Upon presentation of such petition the court may allow a writ of certiorari directed to the Board to review such decision of the Board. The Board shall required to turn over to the court certified copies of all papers acted on by it, and any other information as may be pertinent and material to show the grounds of the decision appealed from.

If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the Board unless it shall appear to the court that the Board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

153.106 CONDITIONAL USES PERMITTED ON REVIEW:

The following procedure is established to integrate property and the Uses Permitted on Review with other land uses located in the district. These uses shall be reviewed by the Planning and Zoning Commission and authorized or rejected under the following procedure:

Scope:

“Conditional Uses”, listed for each district, and as declared to possess characteristics which required special consideration in order to ensure compatibility with other uses in the Zoning District within which they are proposed. A conditional Use which should become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations with a Zoning District, but shall not be allowed under general conditions of the Zoning District as stated in regulations.

A. Application:

1. A property owner, registered agent or a designated representative may apply to for a use permitted on review, using forms available from the Planning & Zoning Office. If the request is by a designated representative, the designation shall be in writing, signed by the property owner, and filed with the application.
2. A Conditional Use Permit (CUP) application shall be filed out and submitted to the Planning & Zoning Office for review. Said application shall include at a minimum the following:
 - a. The application form;
 - b. Non-refundable application fee;
 - c. Location & legal description of the property;
 - d. Intended use of the site;
 - e. Position, size and use of all structures, improvements and facilities to be constructed/reconstructed;
 - f. Location of all points of ingress and egress and internal traffic circulation pattern;
 - g. If applicable, landscape, lighting and drainage plan;

- h. Parking plan; and
- i. Such other architectural and engineering data as may be required by the planning commission.
- j. site plans & maps
- k. names of property owners and existing land uses within three hundred (300) feet of applicants property and nay other supporting material, or information requested, which the Planning Office and/or governing body may require.

B. Notice:

Upon completion of all materials required for a **“Condition Use”**, the City shall provide written notice of the applicants intentions and analysis of the impact of the proposal to owners of parcels in the area required to receive notice. The notice shall included the scheduled date when the item will be discussed in front of the Planning Commission. The notice shall state that any recipient opposed to the proposed application shall notify the Planning & Zoning Office in writing; and that without giving notice as directed to the City of their objection, the property owner will be understood to have no objection to the application. In addition to the application fee, the applicant shall be responsible for cost of notice by certified mail to all owners of parcels; as well as the obligation to returned certified mail receipts to the City Planning & Zoning Office prior to the public hearing date.

C. Public Hearing:

"Upon receipt of an application, the Planning Office shall give notice of public hearing within thirty-five (35) days. Such notice of the time and place of such hearing shall be published in the legal newspaper of the City, fifteen (15) days prior to that public hearing.

The City Planning Office shall require the applicant to give notice to all property owners affected and/or property owners within three hundred (300) feet of applicant's property. The form and content of the notice shall be as prescribed by the Planning Office and/or Planning Commission. The applicant shall provide proof of notification of adjoining property owners, by certified mail to the Planning & Zoning Office no later than two days prior to the date of the public hearing.

The Planning Commission shall then hold a hearing and review the application and make its recommendation related to the Conditional Use Permit (CUP) and conditions thereof, to the City Council within 30 days of said hearing.

The City Council shall then make its determination on the Application within thirty (30) days of the date of recommendation by the Planning Commission.

D. Consideration/Restrictions:

In the exercise of its approval, the Planning Commission and/or City Council may impose such conditions regarding the location, character or other features of the

proposed use or buildings as it may deem advisable in the furtherance of the general purposes of the Ordinance.

The Planning Commission and/or City Council may require conditions and safeguards as deemed necessary to: protect and enhance the health, safety, and welfare of the surrounding area; affirm that the proposed use is necessary or desirable and provides a service or facility that contributes to the general well being of the community; and that such use will comply with the regulations and conditions specified in this Ordinance for such use.

The Planning Commission may recommend to the Council that the CUP be approved without conditions, be approved with conditions or denied.

Review of each CUP application shall consider at a minimum the following criteria:

1. The request is consistent with applicable provisions of the “Comprehensive Plan” and City Ordinances.
2. The request shall not adversely affect adjacent properties.
3. The request is compatible with the existing or allowable uses of adjacent properties.
4. The request can demonstrate that adequate public facilities, including but not limited to roads, drainage, potable water, sanitary sewer, electrical power, police/fire protection exists or will exist to server the requested use at the time such facilities are needed.
5. The request can demonstrate adequate provisions for the maintenance of the use or associated structures.
6. The request has minimized, to the degree possible, adverse effects on the natural environment.
7. The request does not crate undue traffic congestion.
8. The requested use may be subject to periodic review by the Planning Commission to examine: the effectiveness of the imposed conditions; the need for additional mitigating conditions; or the need for continued periodic review.

E. Issuance of Permit:

Upon completion of the necessary application, hearing and approval of the governing body, the Planning & Zoning Office shall issue the building Permit and/or allow the approved use, subject to all applicable rules, regulations and conditions.

F. Validity of Plans, Conditions, Restrictions, Etc.:

All approved plans, conditions, restrictions and rules made a part of the approval of the governing body shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

G. Revocation:

A use approved under this section may be revoked by the city council for cause. The

city shall provide notice of the date, place, and time of the public hearing for the revocation by certified mail sent to the owner of the use/property considered for revocation and to all property owners within three-hundred (300) feet, exclusive of rights-of-way.

H. Request to Review:

Upon receipt of a valid written complaint filed by a person directly affected, or upon determination by the Planning & Zoning Office that cause exists to review the use permit, the Planning & Zoning Office may request that the city council conduct a formal review of the approved use. A valid written complaint shall contain the following:

1. A description of the activity that is taking place not allowed by the existing zoning or not authorized in the original approval, and is not a routine activity normally associated with the surrounding land uses (e.g. trash pick up, mail delivery, etc.).
2. That the activity produces noise, odor, vibration, or traffic patterns not disclosed at the time the use permit was applied for.
2. The effects identified in #2 above; are detrimental to the health, safety and welfare of the complainant and the public.

H. Transfer of Use Permit:

1. A use permit may be transferred to another owner, according to the conditions described in the use permit on review definitions.
2. A written narrative shall be provided to the zoning administrator explaining the nature of the new use, along with all related plans that describe in adequate detail anticipated changes.
3. Use permits issued before the effective date of this ordinance shall be governed by the approvals and conditions given at the time of approval.

I. Denial of Request:

In the event the request for a use on review is denied by the city council, reapplication shall not be permitted for a period of one (1) year, unless the Planning & Zoning Office determines that the request has substantially changed.

J. Special Provisions for Properties Zoned Residential (GR-1,GR-2, GR-3):

The intent of these special provisions is to allow the creative re-use of residential structures for non-residential purposes. Considering properties character, each applicant must demonstrate how it will preserve the unique and/or historic residential qualities of the existing building and the landscape setting of the lot. The following may be permitted through the application procedure outlined above. No changes in use are permitted without recommendation of the planning commission and concurring approval by the city council.

1. **Use permit categories.** All requests for a use permitted on review must be uses that fall into at least one of the following categories:

- a. Educational facilities (defined as a building where instruction or training is provided for a vocation, skill, hobby or job).
- b. Offices and professional services (defined as a building that contains one or more separate rooms or suites which the occupants or tenants use for purposes of doing business transactions or professional work either with the public or in private).
- c. Specialty retail (defined as sales of goods and services in an establishment that offers a product or service whereby the unique or historic aspects of the building or neighborhood are an integral part of the business conducted therein).
- b. Outdoor sales are not permitted.
- e. Tourist/visitor accommodations (defined as a building containing sleeping rooms and support facilities that are offered to the public for rent for less than two week intervals). Bed and breakfasts as defined by the zoning ordinance are permitted.
- g. None of the uses listed in a. through f. shall be interpreted as to allow an adult oriented business as defined or otherwise regulated by ordinances of the City of Box Elder.

2. Site development standards:

- a. All uses of the site and building must be contained within a structure.
- b. All uses shall operate generally between the hours of 8:00 a.m. to 7:00 p.m., with the exception of tourist/visitor accommodations, and uses that can demonstrate compatibility with the adjacent neighborhood if other hours are desired. These hours of operation shall include all deliveries and must be disclosed in the request for the use permit.
- c. Development standards of the underlying zoning district apply for setbacks, height, lot coverage, etc.
- d. If trees or vegetation must be removed as part of the proposed use of the property, this must be disclosed at the time of application. This requirement shall not be interpreted to prevent property owners from removing trees damaged by storms or emergency conditions.
- e. Parking between the city street and public sidewalk is allowed without a variance for 50% of the site frontage. Stalls must be paved and sidewalks must be provided if they do not exist. In no case will parking be allowed street unless parking is allowed on the street otherwise stated in City Ordinance.
- f. All refuse must be contained and fully screened within a fence enclosure between trash pick up days.
- g. All storage must be within an enclosed building, wall or fence and completely screened from view of adjacent properties.
- h. Outdoor activity areas, play yards, etc. must be completely screened from view of adjacent private residential properties by a fully opaque fence or wall of sufficient height to screen the activity. All outdoor activity shall be disclosed at the time of application.
- i. Internal changes in use within a structure are permitted without an amendment to the use permit provided they do not result in an

- intensification of the use of the property.
- j. One sign identifying the business is permitted, maximum of 32 square feet. No offsite advertising is permitted on the parcel possessing a use permit.
 - k. Other buffers as required by the city council.
- 3. Transfer of use permit and use permits issued before the effective date of these regulations.**
- a. A use permit may be transferred to another owner, according to the conditions described in the use permit on review definitions.
 - b. A written narrative shall be provided to the Planning & Zoning Office explaining the nature of the new use, along with all related plans that describe in adequate detail anticipated changes.

K. Uses Already in Existence:

Use permits issued before the effective date of this ordinance shall be governed by the approvals and conditions given at the time of approval.

L. Court Review of Board:

1. Any person / firm or corporation aggrieved by any decision of the Governing Board may present to the court of competent jurisdiction a petition fully verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality.

Such petition shall be presented to the court within thirty (30) days after publication, in the City's legal newspaper/of the minutes of the board action. Such petition shall not be filed with respect to the decision of an employee or any administrative officer without recourse to the Board.

2. Upon presentation of such petition the court may allow a writ of certiorari directed to the Governing Board to review such decision of the Governing Board. The Governing Board shall required to turn over to the court certified copies of all papers acted on by it, and any other information as may be pertinent and material to show the grounds of the decision appealed from.

If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

153.107 AMENDMENTS:

The regulations, restrictions, boundaries and options set forth in this Ordinance may be amended, supplemented, revised or repealed from time to time as conditions warrant, subject to the following conditions:

A. Applications:

An application for an amendment shall be filed with the Planning & Zoning Office. Amendments may be instituted by either the property owner or by the governing body.

The above mentioned application when instituted by a property owner shall be obtained from the Planning & Zoning Office and shall contain the written consent of the owners of 60% of the equity in the lots situated within Three-Hundred (300') feet from any part of such proposed district measured by excluding streets and alleys.

Applications are not required for the governing body to implement zoning amendments.

B. Public Hearing:

"Upon application, the Planning and Zoning Commission shall file with the governing body, a preliminary report and shall hold hearings, notice of which shall be published shall be published one week prior to the date of making the preliminary report to the governing body and shall schedule a hearing with the foregoing notice requirement before it files its final report with the governing body.

The governing body may adopt any changes in the regulations, restrictions or boundaries after having published notice of hearing at least one week prior to the date of adoption of any amendments in the ordinance as notice of the time and place where all persons interested shall be given a full, fair and complete hearing. The ordinance, if adopted, shall be adopted as other ordinances with the same publications requirements.

C. Time Limit:

All proposed amendments shall be decided by the governing body within thirty (30) days of the public hearing.

D. Standards for Amendments:

THE FOLLOWING CONDITIONS SHALL BE MET FOR ALL AMENDMENTS:

1. The proposed amendment shall be necessary because of substantially changed or changing conditions of the area and districts affected.
2. The proposed amendment shall be consistent with the intent and purposes of this ordinance.
3. The proposed amendment shall not adversely affect any other part of the city, nor shall any direct or indirect adverse effects result from such amendment.
4. The proposed amendment shall be consistent with the comprehensive plan as adopted by the City of Box Elder, including, but not limited to, the major road plan, land use plan, community facilities plan and other portions of the comprehensive plan.

153.108 - FEES

Fees for all permits required herein, and fees required for filing of appeals and fees for applications for amendments to this Zoning Ordinance shall be established as follows and be collected by the following:

Fees Collected By:

Building Permits As regulated by City Finance Officer and Ordinance credited to the general fund:

	FEES	COLLECTED BY
Variances	\$300.00	City Finance Officer and credited to the general fund
Manufactured Home Park Permit	\$2500.00 +\$50 per lot	City Finance Officer and credited to the general fund
Use on Review Permit	\$200.00	City Finance Officer and credited to the general fund
Zoning Amendment	\$300.00	City Finance Officer and credited to the general fund

153.109 - PENALTIES:

It shall be unlawful to erect, construct, reconstruct, alter, maintain or sue any building or structure, or to use any land in violation of any regulation in this Ordinance. Any person, firm, association or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine as per a class two (2) misdemeanor together with the cost of the action; every day of violation shall constitute a separate offense. Compliance therewith may also be enforced by injunctinal order at the suit of the city or the owner or owners of real estate within the district affected by the regulation of this Ordinance.

153.110 – VALIDITY:

Should any section, clause or provision of this Ordinance be declared by the Court to be unconstitutional or invalid, this judgment shall not affect the validity of the Ordinance as a whole or any other part other than the part judged invalid.

153.111 - CONFLICTS WITH OTHER LAWS:

In the interpretation and application of the provisions of this Ordinance, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety and the general welfare. Whenever the requirements of the Ordinance are a variance with the requirements of other lawfully adopted rules, regulations or Ordinance, the most restrictive, or that imposing the higher standards shall govern.

153.112 – REPEALER:

Any Ordinance or Code now in effect that conflicts with any provisions of this Ordinance is hereby repealed, held to be invalid and to no effect.

153.101 Table "A"

SLUCM NO.	Land Use Name	APZs			Noise Zones			
		CZ	APZ 1	APZ II	65-69 dBA	70-74 dBA	75-79 dBA	80+ dBA
10	Residential							
11	Household units							
11.11	Single units: detached	N	N	Y ¹	A ¹¹	B ¹¹	N	N
11.12	Single units: semidetached	N	N	N	A ¹¹	B ¹¹	N	N
11.13	Single units: attached row	N	N	N	A ¹¹	B ¹¹	N	N
11.21	Two units: side-by-side	N	N	N	A ¹¹	B ¹¹	N	N
11.22	Two units: one above the other	N	N	N	A ¹¹	B ¹¹	N	N
11.31	Apartments: walk-up	N	N	N	A ¹¹	B ¹¹	N	N
11.32	Apartments: elevator	N	N	N	A ¹¹	B ¹¹	N	N
12	Group quarters	N	N	N	A ¹¹	B ¹¹	N	N
13	Residential hotels	N	N	N	A ¹¹	B ¹¹	N	N
14	Mobile home parks or courts	N	N	N	N	N	N	N
15	Transient lodgings	N	N	N	A ¹¹	B ¹¹	C ¹¹	N
16	Other residential	N	N	N ¹	A ¹¹	B ¹¹	N	N
20-30	Manufacturing							
21	Food & kindred products: Manufacturing	N	N ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
22	Textile mill products: Manufacturing	N	N ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
23	Apparel and other finished products made from fabrics, leather, and similar materials; Manufacturing	N	N	N ²	Y	Y ¹²	Y ¹³	Y ¹⁴
24	Lumber and wood products (except furniture): Manufacturing	N	Y ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
25	Furniture and fixtures: Manufacturing	N	Y ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
26	Paper and allied products: Manufacturing	N	Y ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
27	Printing, publishing, and allied industries	N	Y ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
28	Chemicals and allied products: Manufacturing	N	N	N ²	Y	Y ¹²	Y ¹³	Y ¹⁴
29	Petroleum refining and related industries	N	N	N	Y	Y ¹²	Y ¹³	Y ¹⁴
31	Rubber and misc. plastic products: Manufacturing	N	N ²	N ²	Y	Y ¹²	Y ¹²	Y ¹²
32	Stone, clay, and glass products: Manufacturing	N	N ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴

Land Use		APZs			Noise Zones			
SLUCM NO.	Name	CZ	APZ 1	APZ II	65-69 dBA	70-74 dBA	75-79 dBA	80+ dBA
20-30	Manufacturing (Continued)							
33	Primary metal industries	N	N ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
34	Fabricated metal products: Manufacturing	N	N ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
35	Professional, scientific, and controlling instruments;	N	N	N ²	Y	A	B	N
39	Miscellaneous Manufacturing	N	Y ²	Y ²	Y	Y ¹²	Y ¹³	Y ¹⁴
40	Transportation, communications, and utilities							
41	Railroad, rapid rail transit, and street railroad transportation	N ³	Y ⁴	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
42	Motor vehicle transportation	N ³	Y	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
43	Aircraft transportation	N ³	Y ⁴	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
44	Marine craft transportation	N ³	Y ⁴	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
45	Highway and street right-of-way	N ³	Y	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
46	Automotive parking	N ³	Y ⁴	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
47	Communications	N ³	Y ⁴	Y	Y	A ¹⁵	B ¹⁵	N
48	Utilities	N ³	Y ⁴	Y	Y	Y	Y ¹²	Y ¹³
49	Other transportation, communications and Utilities	N ³	Y ⁴	Y	Y	A ¹⁵	B ¹⁵	N
50	Trades							
53	Wholesale trade	N	N ²	Y ²	Y	A	B	N
54	Retail trade: building materials, hardware, and farm equipment	N	N ²	Y ²	Y	A	B	N
55	Retail trade: general merchandise	N	Y ²	Y ²	Y	A	B	N
56	Retail trade: food	N	N ²	Y ²	Y	A	B	N
57	Retail trade: automotive, marine craft, aircraft, and accessories	N	N ²	Y ²	Y	A	B	N
58	Retail trade: apparels and accessories	N	N	N ²	Y	A	B	N
59	Retail trade; furniture, home furnishings, and equipment	N	N ²	Y ²	Y	A	B	N
60	Services							
61	Finance, insurance, and real estate services	N	N	Y ⁶	Y	A	B	N
62	Personal services	N	N	Y ⁶	Y	A	B	N
62.4	Cemeteries	N	Y ⁷	Y ⁷	Y	Y ¹²	Y ¹³	Y ^{14,21}
63	Business services	N	Y ⁸	Y ⁸	Y	A	B	N

Land Use		APZs			Noise Zones			
SLUCM NO.	Name	CZ	APZ 1	APZ II	65-69 dBA	70-74 dBA	75-79 dBA	80+ dBA
60	Services (Continued)							
64	Repair services	N	Y ²	Y	Y	Y ¹²	Y ¹³	Y ¹⁴
65	Professional services	N	N	Y ⁶	Y	A	B	N
65.1	Hospitals, nursing homes	N	N	N	A*	B*	N	N
65.1	Other medical facilities	N	N	N	Y	A	B	N
66	Contract construction services	N	Y ⁶	Y	Y	A	B	N
67	Governmental services	N	N	Y ⁶	Y*	A*	B*	N
68	Educational services	N	N	N	A*	B*	N	N
69	Miscellaneous services	N	N ²	Y ²	Y	A	B	N
70	Cultural, entertainment, and recreational services							
71	Cultural activities (including churches)	N	N	N ²	A*	B*	N	N
71.2	Nature exhibits	N	Y ²	Y	Y	N	N	N
72	Public Assembly	N	N	N	Y	N	N	N
72.1	Auditoriums, concert halls	N	N	N	A	B	N	N
72.11	Outdoor music shell, amphitheatres	N	N	N	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	N	N	N	Y ¹⁷	Y ¹⁷	N	N
73	Amusements	N	N	Y	Y	Y	N	N
74	Recreational activities (including golf courses, riding stables, water recreation)	N	Y ^{8,9,10}	Y	Y*	A*	B*	N
75	Resorts and group camps	N	N	N	Y*	Y*	N	N
76	Parks	N	Y ⁸	Y ⁸	Y*	Y*	N	N
79	Other cultural, entertainment, and recreational activities	N	Y ⁹	Y ⁹	Y*	Y*	N	N
80	Resources production and extraction							
81	Agriculture (except livestock)	Y ¹⁶	Y	Y	Y ¹⁸	Y ¹⁹	Y ²⁰	Y ^{20,21}
81.5 to 81.7	Livestock farming and animal breeding	N	Y	Y	Y ¹⁸	Y ¹⁹	Y ²⁰	Y ^{20,21}
82	Agriculture-related activities	N	Y ⁵	Y	Y ¹⁸	Y ¹⁹	N	N
83	Forestry activities and related services	N ⁵	Y	Y	Y ¹⁸	Y ¹⁹	Y ²⁰	Y ^{20,21}
84	Fishing activities and related services	Y ⁵	Y	Y	Y	Y	Y	Y
85	Mining activities and related services	Y ⁵	Y	Y	Y	Y	Y	Y
89	Other resources production and extraction	Y ⁵	Y	Y	Y	Y	Y	Y

Sorce: DOD 1977, FIGUN 1980 USURA 1965

Key:

SLUCM = Standard Land Use Coding Manual, USURA.

Y = Yes – Land uses and related structures are compatible without restriction.

N = No – Land use and related structures are not compatible and should be prohibited.

Y^x = Yes with restrictions – Land use and relates structures generally compatible, see notes indicated by the superscript.

N^x = No with exceptions – See notes indicated by the superscript.

NLF = Noise Level Reduction (NLR) (outdoor to indoor) to be achieved through incorporation of the noise attenuation measures into the design and construction of the structures.

A, B, or C = Land use and related structures generally compatible; measures to achieve NLR for A (DNL of 65-69dBA), B (DNL of 70-74dBA), C (DNL of 75-79dBA) need to be incorporated into the design and construction of structures.

A*, B*, and C* = Land use generally compatible with NLR; however, measures to achieve an overall noise level reduction do not necessarily solve noise difficulties and additional evaluation is warranted. See appropriate notes below.

* = the designation of these uses as “compatible” in this zone reflects individual Federal agencies and program considerations of general cost and feasibility factors, as well as past community experiences and program objectives. Localities, when evaluating the application of these guidelines to specific situations, might have different concerns or goals to consider.

Notes:

1. Suggested maximum density of 1 to 2 dwelling units per acre, possibly increased under a Planned Unit Development where maximum lot coverage is less than 20 percent.
2. Within each land use category, uses exist where further deliberating by local authorities might be needed due to the variation of densities in people and structures. Shopping malls and shopping centers are considered incompatible use in any accident potential zone (CA, APZ I, or APZ II).
3. The placement of structures, buildings, or aboveground utility lines in the CZ is subject to severe restrictions. In a majority of the CZs, these items are prohibited. See *AFI 32-7060, Interagency and Intergovernmental Coordination for Environmental Planning (USAF 1994a)*, and *Air Force Joint Manual 32-8008, Airfield and Heliport Planning Criteria (DOD 1994)*, for specific guidance.
4. No passenger terminals and no major aboveground transmission lines in APZ I.

5. Factors to be considered: labor intensity, structural coverage, explosive characteristics, and air pollution.
6. Low-intensity office uses only. Meeting places, auditoriums, and the like are not recommended.
7. Excludes chapels.
8. Facilities must be low-intensity.
9. Clubhouse not recommended.
10. Areas for gatherings of people are not recommended.
11. (a) Although local conditions might require residential use, it is discouraged in DNL of 65-69 dBA noise zone and strongly discouraged in DNL of 70-74 dBA noise zone. The absence of viable alternative development options should be determined and an evaluation should be conducted prior to approvals indicating a demonstrated community need for residential use would not be met if development were prohibited in these zones.
 - (b) Where the community determines the residential uses must be allowed, measures to achieve outdoor to indoor NLR for the DNL of 65-69 dBA noise zone and the DNL of 70-74 dBA noise zone should be incorporated into building codes and considered in individual approvals.
 - (c) NLF criteria will not eliminate outdoor noise problems. However, building location and site planning, and design and use of berms and barriers can help mitigate outdoor exposure, particularly from near ground level sources. Measures that reduce outdoor noise should be used whenever practical in preference to measures that only protect interior spaces.
12. Measures to achieve the same NLR as required for facilities in the DNL of 65-69 dBA noise zone must be incorporated in the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas, or where the normal noise level is low.
13. Measures to achieve the same NLR as required for facilities in the DNL of 70-74 dBA noise zone must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas, or where then normal noise level is low.
14. Measures to achieve the same NLR as required for facilities in the DNL of 75-79 dBA noise zone must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas, or where then normal noise level is low.
15. If noise-sensitive, use indicated NLF; if not, the use is compatible.
16. No Buildings.
17. Land use is compatible provided special sound reinforcement systems are installed.
18. Residential buildings require the same NLR as require for facilities in te DNL of 65-69 dBA noise zone.
19. Residential buildings require the same NLR as require for facilities in te DNL of 70-74 dBA noise zone.
20. Residential buildings are not permitted.
21. Land use is not recommend. If the community decides the use is necessary, personnel should wear hearing protection devices.

City of Box Elder

Larry Larson, Mayor

Attest:

Mystee Lashwood, Finance Officer

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