

~~2014~~2015 Revised Zoning Ordinance

for

Turner County

2014 to 2015 Tracked Changes Version 1/03/15

*Prepared by the South Eastern Council of Governments at the direction of the  
Planning Commission and Board of Commissioners of Turner County, South Dakota*


ORDINANCE #50-14

AN ORDINANCE ADOPTING THE 2014 REVISED ZONING REGULATIONS FOR  
TURNER COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY TURNER COUNTY, SD:


*Section 1. That this Ordinance adopts the revised zoning regulations, as set forth in the document titled 2014 Revised Zoning Ordinance for Turner County; provides restrictions, district boundaries and zoning map; provides for the administration, enforcement and amendment of this Ordinance; and repeals any other ordinance or parts thereof in conflict with this Ordinance.*

Dated this 23<sup>rd</sup> day of September, 2014.

  
Chairman, Turner County Board of  
Commissioners

ATTEST:

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Auditor

First Reading: September 9, 2014  
Second Reading: September 23, 2014  
Adoption: September 23, 2014  
Publication Dates: October 2, 2014 & October 9, 2014 (Notice of Adoption)  
Effective Date: October 29, 2014 (20 days after 2<sup>nd</sup> publication date)

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**Article 1.00**  
**Title and Purpose**

**1.01 Title.** These regulations may be referred to as the ~~2014~~[2015](#) Revised Zoning Ordinance for Turner County.

**1.02 Purpose.** These regulations have been based upon the Turner County Comprehensive Development Plan adopted on August 14, 2007 by the Board of County Commissioners, and are in conformance with Chapter 11-2 of the South Dakota Compiled Laws. These regulations are designed to carry out the goals and objectives of the plan; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration or scattering of population; and to encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provision of transportation, water, drainage, sewerage, schools, parks, or other public requirements. These regulations have been made with reasonable consideration to the character and intensity of the various land uses and the need for public facilities and services that would develop from those uses. These regulations are necessary for the best physical development of the county. The regulations are intended to preserve and protect existing property uses and values against adverse or unharmonious adjacent uses by zoning all unincorporated land except those areas where joint zoning jurisdiction has been granted to a municipality.

**Article 2.00**  
**Districts and Boundaries**

**2.01 Application of Regulations and Boundaries.** The regulations and zoning district boundaries set forth in this ordinance shall apply to all unincorporated land within Turner County except those areas which have been approved for municipal joint zoning jurisdiction.

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

- |                              |                        |
|------------------------------|------------------------|
| A Agricultural               | I Industrial           |
| RR Rural Residential         | F Floodplain           |
| R Residential                | PD Planned Development |
| LR Lake Residential District |                        |
| C Commercial                 |                        |

The following districts shall be designated as zoning overlay districts, imposing special regulations on the properties that fall within these overlay districts without abrogating the requirements imposed by the underlying land use district regulations:

APO Aquifer Protection

**2.03 Incorporated by Reference.** The following are hereby adopted and incorporated by reference:

- A. The official zoning map(s) of the ~~2014~~2015 Revised Zoning Ordinance, together with all the explanatory matter thereon and attached thereto, is hereby adopted by reference and is declared to be a part of these regulations. The maps shall be filed with the Register of Deeds.
- B. The Flood Insurance Rate Map and Flood Insurance Study is hereby adopted by reference and declared to be a part of these regulations. Areas shown as Zone A, AO or A1- A30 on the F.I.R.M. but which are zoned A-1 Agricultural on the zoning map shall be governed by the provisions of the F Floodplain District.
- C. The approved plans submitted in conjunction with any Planned Development are hereby adopted by reference and declared to be a part of these regulations.

**2.04 Boundaries of Districts; Maps.** The boundaries of the districts are shown upon the maps which have been made a part hereof by reference. The various districts and their boundaries which have been designated on these maps shall have the same force and effect as if they were all fully set forth herein.

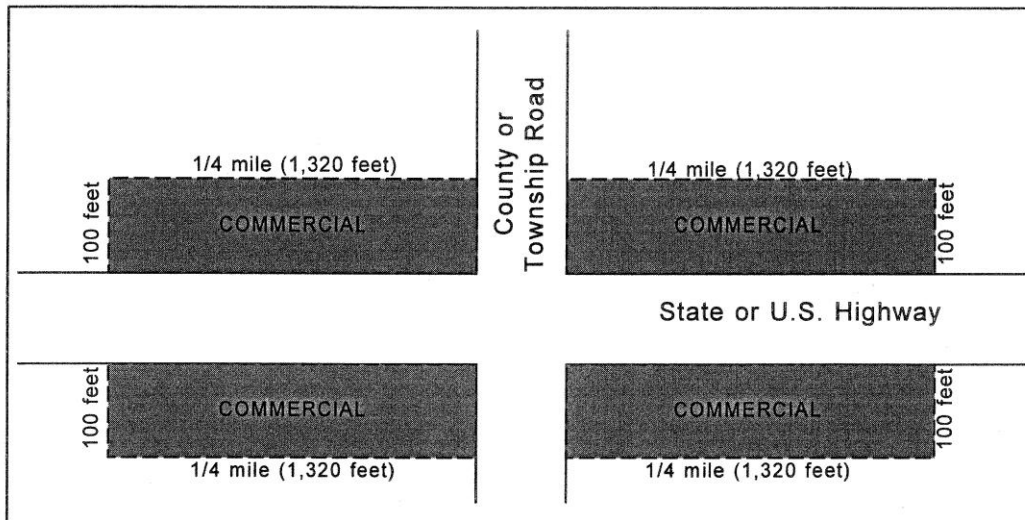
**2.05 Rules Where Uncertainty as to Boundaries Arises.** Where uncertainty exists with respect to the boundaries of the various districts shown on the maps accompanying and made a part of these regulations by reference, the following rules apply:

- A. The district boundaries are roads unless otherwise shown, and where the districts are bounded approximately by roads, the road shall be construed to be the boundary of the district.
- B. Where the property has been or may hereafter be divided into blocks and platted lots, the district boundary shall be construed to coincide with the nearest platted lot lines; and where the districts are bounded approximately by platted lot lines, the platted lot lines shall be construed to be the boundary of the district, unless the boundaries are otherwise indicated on the maps.
- C. In unplatted property, the district boundary lines shall be determined by use of the scale appearing on the map or the legal description as indicated.

**2.06 Vacation of Streets and Roads.** Whenever any street, road or other public way is vacated, the zoning district adjoining each side of such street, road, or other public way is extended to the center of such vacation; and all area included in the vacation shall then and henceforth be subject to the appropriate regulations of the extended districts.

**2.07 Special Commercial Zones.** Notwithstanding the zoning districts shown on the Official Zoning Map, and unless otherwise re-zoned, the areas adjacent to any intersection of a State or U.S. Highway with any County road leading to a municipality, shall be zoned commercial. The extent of the area zoned commercial shall extend in depth one hundred (100) feet back from the highway right-of-way, and shall extend in length one-quarter (1/4) mile from the County road right-of-way, as illustrated in FIGURE 1 below:

FIGURE 1: Special Commercial Zones



**Article 3.00**  
**A Agricultural District**

**3.01 Intent.** It shall be the intent of this district to provide for a vigorous agricultural industry by preserving for agricultural production those agricultural lands beyond areas of planned development.

**3.02 Permissive Uses.** A building or premises shall be permitted to be used for the following purposes in the A Agricultural District:

- A. Agriculture.
- B. A single-family dwelling if the following provisions for building eligibility are met:
  - 1. Each quarter-quarter section shall have three building eligibilities when all the following conditions are met:
    - a. The building site shall be a minimum of 2.5 acres.
    - b. Approval has been granted by the appropriate governing entity for access onto a public road.
    - c. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
    - d. Prior to any building permit being issued for any new single family residence located in the A Agriculture District, a Right to Farm Covenant shall be filed on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant:

**“RIGHT TO FARM NOTICE COVENANT**

You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any twenty-four hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an

area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Turner County Planning Commission.”

- C. Elementary or high school.
- D. Historical sites.
- E. Church.
- F. Neighborhood utilities.
- G. Antenna support structure.
- H. Wind energy conversion system.
- I. Greenhouses and nurseries provided there is no retail sale of products conducted on the premises.
- J. Concentrated Animal Feeding Operation (~~Class~~Large B, ~~C~~Medium and ~~D~~Small) provided:
  - 1. The operation shall meet the requirements of Section 12.09(~~E~~)(D) and Section 12.09 (~~E~~)(54).
  - 2. The operation shall not be in the Aquifer Protection Overlay District, over a mapped shallow aquifer or a flood plain (unless State Permitted).
- K. Concentrated Animal Feeding operation (existing) shall be allowed to expand as provided:
  - 1. The operation is located in a farmstead or property contiguous to, and smaller than, the aforementioned farmstead.
  - 2. The operation shall not be located in the Aquifer Protection Overlay District, over a mapped shallow aquifer or a flood plain (unless State Permitted).
  - 3. The operation shall not exceed ~~2,499 animal units~~ a Large B Concentrated Animal Feeding Operation.
  - 4. There is conformance with South Dakota Department of Environment and Natural Resources design standards for any newly constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.



5. Approval by the Zoning Administrator of a nutrient management plan which has been prepared in conformance with the South Dakota Department of Environment and Natural Resources standards.

6. The operation shall meet the requirements of Table 1 in Section 12.09(~~E~~4D) and Section 12.09(E)(~~54~~).

L. 501(d) Non-Profit Religious and Apostolic Association in conformance with Article 12.12.

M. Rock, sand, or gravel extraction.

N. Mineral exploration.

O. Off-premise signs in conformance with Article 17.00.

**3.03 Conditional Uses.** A building or premises may be used for the following purposes in the A Agricultural District if a conditional use permit has been obtained in conformance with the requirements of Article 19.00:

A. Airport/heliport.

B. Group day care.

C. Private campground.

D. Garden center.

E. Kennel.

F. Stable.

G. Roadside stand.

H. Fireworks sales provided the length of sales does not exceed nine (9) days.

I. Golf course, golf driving range.

J. Private outdoor recreation facility.

K. Trap shoot, rifle range, pistol range.

L. Public facility owned and operated by a governmental entity.

M. Telecommunication and broadcast tower in conformance with Article 12.11.

N. Bed and breakfast establishment.

- O. Sanitary landfill, solid waste transfer station, rubble dump, commercial compost site.
- P. Public sewage disposal pond.
- Q. Cemetery.
- R. Pet cemetery.
- S. Livestock sales barn.
- | T. Concentrated Animal Feeding Operation (~~Class~~Large A).
- U. Electrical substation.
- V. Public utility facility.
- W. Agriculturally related operations involving the handling, storage and shipping of farm products.
- X. Manufactured home in conformance with Article 12.05(C) if there is building eligibility on the parcel.
- Y. Major home occupation in conformance with Sections 12.0302 and 12.0303.
- | Z. —Facilities for the storage and distribution of anhydrous ammonia.
- AA. Ethanol production facilities.

**3.04 Accessory Uses.** Accessory uses and buildings permitted in the A Agricultural District are buildings and uses customarily incident to any permitted use in the district.

**3.05 Parking Regulations.** All parking within the A Agricultural District shall be regulated in conformance with the provisions of Article 15.00.

**3.06 Sign Regulations.** Signs within the A Agricultural District shall be regulated in conformance with the provisions of Article 16.00.

**3.07 Density, Area, Yard and Height Regulations.** The maximum height and minimum lot requirements within the A Agricultural District shall be as follows:

A. General Requirements:

- Lot area.....2.5 acres \*
- Lot width .....125'
- Front yard .....30'\*\*
- Side yard .....30'
- Rear yard .....30'

Maximum height .....35' \*\*\*

\* Unless a larger lot size is required by the granting of a conditional use permit.

\*\* The front yard on a major arterial street or section line road shall be 50 feet.

\*\*\* There shall be no height limit for farm structures or wind energy conversion systems.

- B. There shall be a required front yard on each street of a double frontage lot.
- C. If a lot of record has less area or width than herein required and its boundary lines along the entire length abutted lands under other ownership on July 8, 1998, and have not since been changed, such parcel of land may be used for any use permitted in this district.
- D. Buildings with side yard setbacks less than required herein may have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building.
- E. Buildings may be located within the required front yard but no closer to the public right-of-way than a legal nonconforming building provided the building is no greater than 150 feet from the nonconforming building.

**Article 4.00**  
**RR Rural Residential District**

**4.01 Intent.** This district is intended to protect a vigorous agricultural industry by limiting the areas in which the RR Rural Residential District can be used. The RR Rural Residential District, where permitted, shall generally be located where provisions can be made to adequately handle sewage disposal, where the value of the land for agricultural use is marginal, and where the water supply, roads and emergency services are easily and economically available.

**4.02 Permissive Uses.** A building or premises shall be permitted to be used for the following purposes in the RR Rural Residential District:

- A. Single family dwelling.
- B. Public park, playground or swimming pool.
- C. Neighborhood utilities.
- D. Church.
- E. Elementary or high school.

**4.03 Conditional Uses.** A building or premises may be used for the following purposes in the RR Rural Residential District if a Conditional Use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Mobile home/manufactured home park in conformance with Article 12.05.
- B. Mobile home/manufactured home subdivision in conformance with Article 12.05.
- C. Day care center.
- D. Group day care.
- E. Group home.
- F. Bed and breakfast establishment.
- G. Nursing home.
- H. Cemetery.
- I. Kennel.
- J. Stabling of horses, provided they are owned by the resident of the property and not used as a commercial operation on the property.

- K. Golf course, driving range.
- L. Wind Energy Conversion System.
- M. Electrical substation.
- N. Public utility facility.
- O. Public facility owned and operated by a governmental entity.

**4.04 Accessory Uses.** Accessory uses and buildings permitted in the RR Rural Residential District are buildings and uses customarily incident to any of the permitted uses in the district.

**4.05 Parking Regulations.** All parking within the RR Rural Residential District shall be regulated in conformance with the provisions of Article 15.00.

**4.06 Sign Regulations.** Signs within the RR Rural Residential District shall be regulated in conformance with the provisions of Article 16.00.

**4.07 Density, Area, Yard and Height Regulations.** The maximum height and minimum lot requirements within the RR Rural Residential District shall be as follows:

- A. General requirements:

All Uses

Density .....	1 acre *
Lot area .....	1 acre *
Lot width .....	125'
Front yard .....	30' **
Side yard .....	7'
Rear yard .....	30'
Maximum height .....	35'

\* Where a central sanitary sewer is available, the required lot area may be reduced to 20,000 square feet.

\*\* The front yard on all major arterial streets or section line roads shall be 50 feet.

- B. There shall be a required front yard on each street of a double frontage lot.
- C. Buildings with side yard setbacks less than required herein, may have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building.

**Article 5.00**  
**R Residential District**

**5.01 Intent.** This district is intended to provide for areas of residential use with a gross density of generally five dwelling units per acre or less. The district permits single family dwellings and such supportive community facilities as parks, playgrounds, schools, libraries and churches. It is intended that this district provide protection for those areas existing as, or planned for, single family neighborhoods. A central sanitary sewer system should be available to serve these developments.

**5.02 Permissive Uses.** A building or premises shall be permitted to be used for the following purposes in the R Residential District:

- A. Single family dwelling.
- B. Public park, playground or swimming pool.
- C. Neighborhood utilities.
- D. Church.
- E. Elementary or high school.

**5.03 Conditional Uses.** A building or premises may be used for the following purposes in the R Residential District if a conditional use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Multiple dwellings.
- B. Group day care.
- C. Day care center.
- D. Bed and breakfast establishment.
- E. Private lake.
- F. Group home.
- G. Nursing home.
- H. Convent and monastery.
- I. Electrical substation.
- J. Public utility facility.

**5.04 Accessory Uses.** Accessory uses and buildings permitted in the R Residential District are buildings and uses customarily incident to any of the permitted uses in the district.

**5.05 Parking Regulations.** Parking within the R Residential District shall be regulated in conformance with the provisions of Article 15.00.

**5.06 Sign Regulations.** Signs within the R Residential District shall be regulated in conformance with the provisions of Article 16.00.

**5.07 Density, Area, Yard and Height Regulations.** The maximum height and minimum lot requirements within the R Residential District shall be as follows:

A. General requirements:

	All Uses	Corner Lots
Density	7,500 sq. ft.	8,500 sq. ft.
Lot area	7,500 sq. ft.	8,500 sq. ft.
Lot width	60'	85'
Front Yard	30'	30' *
Side yard	7' **	7' **
Rear yard	30'	15'
Maximum height	35'	35'

\* The front yard along the side street side of a corner lot may be reduced to twenty-five feet.

\*\* The side yard will be required to be increased to ten feet when the building is three stories in height or more.

B. The requirements for multiple dwellings shall be determined by the conditional use.

C. There shall be a required front yard on each street of a double frontage lot.

D. Buildings with side yard setbacks less than required herein, may have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building.

**Article 6.00**  
**LR Lake Residential District**

**6.01 Intent.** This district is intended to provide for orderly residential development around lakes.

**6.02 Permissive Uses.** A building or premises shall be permitted to be used for the following purposes in the LR Lake Residential District:

- A. Single family dwelling.
- B. Preservation areas and facilities.
- C. Agriculture, horticulture and ranching uses.
- D. Attached garages.
- E. Public parks.
- F. Antennas 35 feet or less in height.

**6.03 Conditional Uses.** A building or premises may be used for the following purposes in the LR Lake Residential District if a conditional use permit for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Amusement, cultural and recreation areas and facilities.
- B. Manufactured home park.
- C. Manufactured home not in a manufactured home park.
- D. Multiple dwellings.
- E. Nursing home.
- F. Elementary or high school.
- G. Antennas over 35 feet in height.
- H. Signs (on-site or off-site).
- I. Electrical substation.
- J. Public utility facility.
- K. Any structure or building moved into the LR District.



L. Sewer septic tank and drain field.

**6.04 Density, Area, Yard and Height Regulations.** The maximum height and minimum lot requirements within the LR Lake Residential District shall be as follows:

A. General requirements:

All Uses

Density .....	-
Lot area .....	-
Lot width.....	100'
Lot depth .....	75'
Front yard .....	10' *
Side yard .....	10'
Rear yard .....	10' **
Maximum height .....	35'

\* Front yard shall be measured from the lot line along the road.

\*\* Rear yards shall be measured from the high water mark (1252.9 feet mean sea level (msl) as determined by the South Dakota Department of Environment and Natural Resources).

**6.05 Additional LR District Regulations.** To be a permitted Use or Conditional Use in the LR District, such use shall be conditional upon the property owner meeting the following performance standards.

- A. Any structure must utilize either a central wastewater collection and treatment system, or a sealed, leak proof and corrosion resistant holding tank for effluent generated by said structure. A conditional use may be allowed for a septic tank and sewer drain field, if the Board determines that the septic tank and drain field meet County standards and does not pose any significant public health or pollution risk.
- B. Except for boathouses, piers and docks, all structures (including basements) shall be constructed so that the lowest floor is no less than 3 feet above the high water mark.
- C. No building or structure may be moved into the LR District without the owner of the property having first applied for a moving permit and a conditional use permit. No permit may be granted unless the structure to be moved in meets County building and zoning standards.

**Article 7.00**  
**C Commercial District**

**7.01 Intent.** This district is intended to provide for a wide variety of commercial uses generally located at major intersections and along major roads. This district will include general commercial uses requiring large land areas, extensive retail operations, and outdoor display.

**7.02 Permissive Uses.** A building or premises shall be permitted to be used for the following purposes in the C Commercial District:

- A. Office.
- B. Bank or financial institution.
- C. Group day care, day care center, group home.
- D. Mortuary.
- E. Indoor recreational facility.
- F. Nursery or greenhouse.
- G. Church.
- H. Antenna support structure.
- I. Retail sales and trade, personal services, communication facilities, and warehousing.
- J. Off-premise signs in conformance with Article 17.00.

**7.03 Conditional Uses.** A building or premises may be used for the following purposes in the C Commercial District if a conditional use for such use has been obtained in conformance with the requirements in Article 19.00:

- A. Wholesale trade.
- B. Bar or lounge.
- C. Equipment sales, display and repair.
- D. Motor vehicle sales, display, service and rental.
- E. Auto body shop.
- F. Transportation, including gasoline service station, truck stop, and terminal.

- G. Recycling facility.
- H. Fireworks sales provided sales are conducted from a permanent building when business operations exceed nine (9) days.
- I. Uses which store or handle a regulated substance.
- J. Lumberyard.
- K. Contractor's shop and storage yard.
- L. Car wash.
- M. Airport/heliport.
- N. Hotel or motel.
- O. Hospital.
- P. Motor vehicle repair shop.
- Q. Public utility facility.
- R. Campground.
- S. Commercial recreation facility.
- T. Wind energy conversion system.
- U. Telecommunication and broadcast tower in conformance with Article 12.11.
- V. Electrical substation.
- W. Adult use in conformance with SDCL Ch. 11-12.
- X. Veterinarian clinic.
- Y. Frozen food locker.

**7.04 Accessory Uses.** Accessory uses permitted in the C Commercial District are accessory buildings and uses customarily incident to any permitted uses in this district.

**7.05 Parking Regulations.** Parking within the C Commercial District shall be regulated in conformance with the provisions of Article 15.00.

**7.06 Sign Regulations.** Signs within the C Commercial District shall be regulated in conformance with the provisions of Article 16.00.

**7.07 Density, Area, Yard and Height Regulations.** A maximum height and minimum lot requirements within the C Commercial District shall be as follows:

A. General Requirements:

All Uses

Density .....	—
Lot Area .....	—
Lot Width .....	—
Front Yard .....	30'
Side Yard .....	10'
Rear Yard .....	20'
Maximum Height .....	35'

- B. There shall be a required front yard on each street side of double frontage lots.
- C. There shall be a required front yard on each street side of a corner lot.
- D. Any accessory uses shall be required to comply with the height, front, rear, and side yard requirements of the main building.

**Article 8.00**  
**I Industrial District**

**8.01 Intent.** This district is intended to provide for industrial uses which may create some nuisance. All uses in this district shall comply with any state regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable.

**8.02 Permissive Uses.** A building or premises shall be permitted to be used for the following purposes in the I Industrial District:

- A. Light manufacturing.
- B. Public utility facility, electrical substation.
- C. Antenna support structure.
- D. Office
- E. Wind energy conversion system.
- F. Communication facilities, warehousing and wholesale trade.
- G. Extraction of rock, sand and gravel.
- H. Mineral exploration and development.

**8.03 Conditional Uses.** A building or premises may be used for the following purposes in the I Industrial District if a Conditional Use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. General manufacturing.
- B. Stockyards/slaughtering of animals.
- C. Rendering.
- D. Distillation of products.
- E. Refining.
- F. Sanitary landfill, solid waste receiving station.
- G. Paper manufacturing.
- H. Tank farm; petroleum products terminal.

- I. Salvage or junkyard.
- J. Airport/heliport.
- K. Off-premise signs in conformance with Article 17.00.
- L. Telecommunication and broadcast tower in conformance with Article 12.11.
- M. Any similar use not heretofore specified.

**8.04 Accessory Uses.** Accessory uses and buildings permitted in the I Industrial District are accessory buildings and uses customarily incident to any permitted uses in this district.

**8.05 Parking Regulations.** Parking within the I Industrial District shall be regulated in conformance with the provisions of Article 15.00.

**8.06 Sign Regulations.** Signs within the I Industrial District shall be regulated in conformance with the provisions of Article 16.00.

**8.07 Density, Area, Yard and Height Regulations.** The maximum height and minimum lot requirements within the I Industrial District shall be as follows:

A. General requirements:

All Uses

Density .....	—
Lot Area .....	—
Lot Width .....	—
Front Yard .....	30'
Side Yard .....	10'
Rear Yard .....	20'
Maximum Height .....	55'

**Article 9.00**  
**F Floodplain District**

**9.01 Intent.** This district is intended to protect natural drainage courses in their capacity to carry run-off water, to limit permanent structures and uses of land in areas subject to flooding, to prevent the pollution of underground water supplies (aquifers), to provide open space and natural areas for recreation, and add to the aesthetic quality of the area.

**9.02 Permissive Uses.** A building or premises shall be permitted to be used for the following purposes in the F Floodplain District:

- A. Agriculture.
- B. Public park; forest preserve.
- C. Public golf course.
- D. Historic sites.
- E. A single-family dwelling if the following provisions for building eligibility are met:
  - 1. Each quarter-quarter section shall have three building eligibilities when all the following conditions are met:
    - a. The building site is not in the 100-year flood plain as identified on the Flood Insurance Rate Map.
    - b. The building site shall be a minimum of 2.5 acres.
    - c. Approval has been granted by the appropriate governing entity for access onto a public road.
    - d. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
    - e. Prior to any building permit being issued for any new single family residence located in the F Floodplain District, a Right to Farm Covenant shall be filed on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant:

**“RIGHT TO FARM NOTICE COVENANT**

You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the

following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Turner County Planning Commission.”

- F. Plant nursery provided there are no buildings located in the 100-year flood plain as identified on the Flood Insurance Rate Map.
- G. Off-premise signs in conformance with Article 17.00.
- H. Telecommunication and broadcast tower in conformance with Article 12.11.
- I. Rock, sand and gravel extraction.

**9.03 Conditional Uses.** A building or premises may be used for the following purposes in the F Floodplain District if a Conditional Use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Manufactured home in conformance with Article 12.05(C) if there is building eligibility on the parcel.
- B. Group day care.
- C. Private outdoor recreation facility.
- D. Day or summer camp.
- E. Rifle and pistol range; trap shoot.
- F. Stable.
- G. Kennel.
- | H. Roadside stand.



- I. Fireworks sales provided the length of sales does not exceed nine (9) days.
- J. Cemetery.
- K. Fairgrounds.
- L. Electrical substation.
- M. Public utility facility.
- N. Major home occupation in conformance with Sections 12.0302 and 12.0303.

**9.04 Accessory Uses.** Accessory uses permitted in the F Floodplain District are accessory buildings and uses customarily incident to any permitted uses in this district.

**9.05 Parking Regulations.** Parking within the F Floodplain District shall be regulated in conformance with the provisions of Article 15.00.

**9.06 Sign Regulations.** Signs within the F Floodplain District shall be regulated in conformance with the provisions of Article 16.00.

**9.07 Density, Area, Yard and Height Regulations.** The maximum height and minimum lot requirements within the F Floodplain District shall be as follows:

A. General requirements:

- Lot Area .....2.5 acres\*
- Lot Width.....125'
- Front Yard.....30'\*\*
- Side Yard .....30'
- Rear Yard.....30'
- Maximum Height .....35'\*\*\*

\* Unless a larger lot size is required by the granting of a conditional use permit.

\*\* The front yard on a major arterial street or section line road shall be 50 feet.

\*\*\* There shall be no height limit for accessory farm structures or wind energy conversion systems.

**Article 10.00**  
**PD Planned Development District**

**10.01 Intent.** It is the intent of this district to provide flexibility from conventional zoning regulations with increased public review for PD Planned Development District projects in order to:

- A. Encourage well planned, efficient development.
- B. Allow a planned and coordinated mix of land uses which are compatible and are harmonious, but previously discouraged by conventional zoning procedures.
- C. Encourage the redevelopment of contiguous large lot parcels into an integrated and orderly subdivision pattern, with particular attention to developing an efficient and coordinated network of internal streets.
- D. Promote the clustering of residential structures and other uses without increasing overall density of the development area in order to preserve unique and natural features such as woodlands, wetlands, natural drainage systems and scenic areas.
- E. Protect sensitive areas and areas with restrictive soil conditions within development areas through clustering of uses on land more suited for building.
- F. Reserve adequate public right-of-way within development areas for the eventual extension of arterial and collector streets, including proper width and spacing of such streets.
- G. Improve communication and cooperation among the County, townships, land developers, and interested residents in the development of agricultural land and redevelopment of existing areas.

It is not the intent of the PD Planned Development District to accommodate or encourage the development of isolated small tracts where adjoining parcels are not considered within an overall development scheme.

**10.02 Procedure.**

- A. Initial Development Plan. When a petitioner wants to request a rezoning to the Planned Development District, he shall submit his request to the Zoning Administrator, showing the information specified in 10.03 below, a minimum of thirty (30) days prior to the Planning Commission meeting at which consideration is desired. After the planned development request has been reviewed, the Planning Commission shall make a recommendation to the County Commission on the requested rezoning. The County Commission shall then act to approve or deny said request.

This request for rezoning is subject to the requirements for amendment of the zoning regulations specified in Article 20.00. No permit shall be issued within the development until the Final Development Plan is approved and the plat is filed.

- B. Final Development Plan. Prior to construction on any lots in the planned development, the petitioner shall present a Final Development Plan showing the information specified in 10.04 below, to the Planning Commission, who shall have the sole authority to approve, deny, or amend said plan.

The Final Development Plan may be submitted in conjunction with the Initial Development Plan for concurrent approval on any subareas the developer is ready to commit to a final plan. All the information required for both an Initial and Final Development Plan must be shown for the area submitted for concurrent approval, except that the developer may reference the requirements of one of the traditional zoning districts as the development standard for a particular subarea.

- C. Amendments.

1. Major Amendments. Major amendments to the Initial and/or Final Development Plan shall be required to be approved as an amendment to the zoning regulations, requiring Planning Commission review, and County Commission approval.
2. Minor Amendments. Minor amendments to the Initial and/or Final Development Plan shall be required to be approved by the Planning Commission at a hearing. Notice of such hearing shall be given by the posting of a sign on the property. Minor amendments to the Initial Development Plan may also be made by the submission and approval of a Final Development Plan which is changed from the approved Initial Development Plan. Any such amendments shall be shown as a change from the Initial Development Plan on the Final Development Plan.
3. Minimal Amendments. Minimal amendments to the Final Development Plan shall be submitted to the Zoning Administrator on a reproducible development plan showing the requested changes. The Zoning Administrator may then approve such change in writing, if he/she deems it appropriate.

**10.03 Initial Development Plan.** Upon application for rezoning to the Planned Development District, the petitioner shall present an Initial Development Plan to the Planning Commission for review, and to County Commission for their approval showing the following information:

- A. Project name and legal description.
- B. A preliminary subdivision plan.
- C. The proposed development scheme showing the following information:

1. The proposed land uses, including the number and type of proposed residential buildings, the proposed number of dwelling units per building, the number and type of any proposed nonresidential buildings and their square footage.
2. The proposed maximum density of the development, which shall not exceed the density allowed in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such densities undesirable.
3. The proposed minimum setbacks which shall be no less than those required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such setbacks undesirable.
4. The proposed maximum height which shall be no greater than that required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such heights undesirable.
5. Proposed design features illustrating compatibility to the surrounding environment and neighborhood.
6. Anticipated subarea development sequence.

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

- A. The subdivision name, the legal description, and the individual project name (if any).
- B. Boundaries of the subarea or subareas submitted for approval superimposed on the map of the Initial Development Plan.
- C. A subdivision plat of the subarea or subareas submitted for approval.
- D. A scale drawing showing the following information will be required for everything except single-family detached dwelling subareas:
  1. Size and location of proposed structures including height and number of units.
  2. Calculated floor area for each structure and a generic listing of the uses within said structure.
  3. Off-street parking lot arrangement designating all parking spaces, off-street loading spaces, and any outdoor trash container spaces.
  4. Any sidewalks, bikeways or other paths.

5. Landscaping plans showing the type and location of any walls or fences, the placement, size and species of any trees or shrubs, and berms in areas that will be sod or seeded.
6. All existing and proposed utilities, drainageways, water courses, and location of above ground existing utilities on adjacent property.
7. Proposed final ground contours.
8. Existing and proposed uses adjacent to the area.
9. Documentation of the ownership and maintenance responsibility of any common open spaces, structures, or facilities including private streets.
10. Any subareas proposed for multiple residential development will be required to provide an open area for recreation. Said open spaces shall not be included in any required yard, but shall be located in the same subarea it is intended to serve.
11. Proposed parking and loading spaces which shall be in conformance with Article 15.00, except where unique physical, environmental or design characteristics make such requirements undesirable.
12. Unless otherwise specified on the Final Development Plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each subarea as a part of the Final Development Plan.

#### **10.05 Amendments.**

- A. The following changes in an Initial and/or Final Development Plan are considered major amendments:
  1. Any change in the proposed land uses.
  2. Any major change in the street pattern.
  3. An increase in density above that provided for in (B)(5) below.
- B. Minor Amendments: The following changes in an Initial and/or Final Development Plan are considered minor amendments:
  1. Any adjustment in the size or shape of the building envelope (increasing the height or reducing the building setback).
  2. Major decrease in density.
  3. Any decrease in the size of required open areas.

4. A minor change in the street pattern.
  5. Any increase in density of a subarea:
    - a. Less than 25% for a subarea with less than eight units.
    - b. Less than 15% for a subarea with between nine and twenty units.
    - c. Less than 8% for a subarea with twenty-one units or more.
- C. Minimal Amendments: The following changes in an Initial and/or Final Development Plan are considered minimal amendments:
1. Any adjustment of a building within a previously established building envelope.
  2. A minor reduction in density.

**10.06 Planned Development Districts.** Planned development districts shall be as enumerated below:

**Article 11.00**  
**APO Aquifer Protection Overlay District**

**11.01 Intent.** This district is intended to preserve the quality and quantity of the area's water resources so as to ensure a safe and adequate supply of drinking water for present and future generations. Restrictions shall apply to land use activities which have the potential to contaminate water resources, including aquifers and wellhead sites currently in use and those having the potential for future use as a public water supply.

The purpose of these regulations is to prohibit certain uses which pose the greatest threat to groundwater contamination and to impose reasonable and adequate safeguards on other uses which exhibit a potential to contaminate the groundwater.

The APO Aquifer Protection Overlay District is an overlay whose boundaries are superimposed on all districts established by this ordinance. It is not intended that these regulations interfere with, abrogate, or annul any other rules or regulations of this ordinance, except that if the APO Aquifer Protection Overlay District imposes a greater restriction than the underlying zoning district regulations, they shall control.

**11.02 Boundaries of District.** The boundaries of the APO Aquifer Protection Overlay District are shown upon the maps which have been made a part hereof by reference. The maps shall be signed by the Chairman of the Board of County Commissioners and filed with the County Register of Deeds. The maps shall have the same force and effect as if they were all fully set forth herein.

**11.03 Conditional Uses.** A conditional use permit shall be required for any use which involves the storage and/or use of a regulated substance as defined by this ordinance. All available practical methods of preventing and controlling the contamination of groundwater from waste and other contaminants shall be employed.

**11.04 Prohibited Uses.** The following uses shall not be allowed in the APO Aquifer Protection Overlay District:

- A. Sanitary landfill, solid waste transfer facility.
- B. Waste disposal except the spreading of solid and liquid animal waste.
- C. Public sewage disposal pond.
- D. Disposal of radioactive waste.
- E. Injection well (Class V well).
- F. Petroleum products terminal.
- G. Junk or salvage yard.

- H. Manufacture of a regulated substance.
- I. Unenclosed storage of road salt.
- J. Cemetery.



**Article 12.00**  
**Additional Use Regulations**

**12.01 Fences.** Regulations regarding fences shall be as follows:

- A. Fences up to four feet in height may be located on any part of the lot except that such a fence may not be more than 30 percent solid if located within 30 feet of a street intersection, measuring along the property line.
- B. Fences up to six feet in height may be erected on those parts of a lot that are as far back or farther back from the street than the main building.
  - 1. EXCEPTION: Fences up to six feet in height may be placed in the side-street-side front yard where:
    - a. The side-street-side front yard abuts an arterial street shown on the major street plan.
    - b. The side-street-side front yard is not adjacent to a side yard.
    - c. The fence is located no closer to the front yard than the rear wall of the main building.
  - 2. In the C and I zoning districts, fences not more than eight (8) feet in height may be located on any part of a lot other than the required front yard except when such lot is adjacent to a residential district.

**12.02 Reserved.**

**12.03 Home Occupations.** It is deemed appropriate to allow limited nonresidential activities to operate in conjunction with a residence in those zoning districts where residential dwellings are permitted, provided the regulations protect the character and integrity of the unincorporated area.

The objective of these regulations is to allow limited commercial type activities associated with a residence only to the extent that the activity is clearly subordinate to the residential or agricultural use of the property. Due to the diverse pattern of development in the rural area, the regulations provide for both minor and major home occupations.

**12.0301 Minor Home Occupation.** In all zoning districts permitting residential dwellings, minor home occupations in compliance with each of the following standards are permitted as accessory uses. Due to their incidental and residential nature, minor home occupations are relatively common accessory uses which are not easily detectable and are not reasonable or desirable to regulate through a conditional use permit.

- 1. The occupation shall be conducted entirely within a dwelling and clearly incidental to the use of the structure for residential purposes.

2. There shall be no change in the outside appearance of the dwelling or any visible evidence of the conduct of the occupation.
3. Only residents of the dwelling shall be employed by or participate in the occupation.
4. The storage of equipment, vehicles, or supplies associated with the occupation shall not occur outside the dwelling. Accessory buildings or structures shall not be used for storage.
5. There shall be no display of products visible in any manner when viewed from outside the dwelling.
6. No advertising or display signs shall be permitted other than a nameplate attached to the dwelling. The nameplate shall not be illuminated and shall not be more than four square feet in area. No off premise signs shall be used.
7. The occupation shall not require internal alterations or involve construction features not customary in a dwelling. External alterations intended to create a separate entrance or other feature exclusively for the occupation is prohibited.
8. There shall be only limited and incidental sale of products conducted on the premise.
9. The occupation shall not generate more than four (4) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. The occupation shall not result in additional off-street parking spaces for clients or customers.
11. Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.
12. No equipment or process shall be used in the occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property.
13. No equipment or process shall be used in the occupation which creates visual or audible electrical interference in any radio or television receiver or causes fluctuations in line voltage off the property.
14. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

**12.0302 Major Home Occupation.** It is recognized that home occupations which exceed the requirements of Section 12.0301 may be appropriate in a low density residential setting or if associated with an agricultural use. For the purpose of this ordinance, such uses are classified as

either a Class 1 or Class 2 major home occupation, and shall be evaluated giving consideration to the following criteria:

A. Class 1:

1. The occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding four square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
9. The occupation shall not generate more than ten (10) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

B. Class 2:

1. The occupation shall be conducted in a dwelling or agricultural building accessory to the dwelling which comprise the headquarters for the agricultural use, and such

agricultural use is conducted on one or more parcels of land with a total area of at least five acres which must be contiguous to or in close proximity to the headquarters.

2. The occupation shall be clearly secondary to the principal use of the land for agricultural purposes.
3. The owner or occupant of the dwelling shall be engaged in the occupation.
4. The occupation shall have no more than five (5) employees, including residents of the property.
5. The occupation shall be conducted within a completely enclosed building typical of farm buildings. Such building shall be located behind the dwelling, or shall be located at least seventy-five (75) feet from the nearest road right-of-way.
6. All materials, supplies and products associated with the occupation shall be stored within a building or if open storage of materials or equipment is required it shall be concealed with appropriate screening or landscaping.
7. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or agricultural building. Additionally, one nonilluminated sign not exceeding thirty-two square feet in area may be located along the driveway for the occupation. -No off-premise signs shall be used.

**12.0303 Major Home Occupation - Permit Procedure.** A conditional use application is required for a major home occupation in accordance with the requirements of Article 19.00. The application shall be evaluated and conditions established using the criteria in Section 12.0302 (A) or (B).

**12.04 Reserved.**

**12.05 Mobile Homes/Manufactured Homes.** Regulations regarding mobile homes and manufactured homes shall be as follows:

- A. A park intended for the placement of mobile homes and manufactured homes on rented lots and where the roads are not publicly dedicated shall meet the following minimum standards:
  1. A plan shall be prepared showing the layout of the park, including lot lines, the road system and spacing diagram for all structures. Upon approval of the conditional use for the park, the plan shall be filed in the office of the Zoning Administrator and govern all future development.
  2. Each lot shall have a minimum size required for the zoning district in which the park is located. However, a smaller lot size may be approved as part of the conditional use.

3. No dwelling or any structure, addition, or appurtenance thereto shall be located less than the minimum setback required by the district in which the park is located. The setback requirements may be changed as part of the approval of the conditional use.
  4. Each lot shall abut or face a clear unoccupied space, roadway, or street having a width of at least [thirty-four \(34\)](#) feet where parking is permitted on both sides, [twenty-seven \(27\)](#) feet in width where parking is restricted to one side only and [twenty-four \(24\)](#) feet wide where parking is prohibited, or be connected to such street or roadway by a private driveway not less than [twelve \(12\)](#) feet in width, serving no more than four lots. A hard surfaced material shall be used on all roadways except in the RR District, in which case gravel may be used.
  5. The park shall be a minimum of ten (10) acres in size.
- B. A subdivision for mobile homes and manufactured homes shall be required to meet the subdivision regulations and the density, area and yard requirements for the district in which it is located. The subdivision shall be a minimum of ten (10) acres in size.
- C. A manufactured home may be considered for a conditional use as specified in the district regulations only if the following requirements are met:
1. The structure shall have been constructed on or after July 15, 1976.
  2. The exterior dimensions of the structure, measured by excluding overhangs, shall not be less than twenty-two (22) feet.
  3. The structure shall be supported by a foundation system consisting of walls along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of [forty-two \(42\)](#) inches below final grade.
  4. The roofing and siding material shall be consistent with the material used in site-built dwellings.
  5. The roof pitch shall not be less than a 3 in 12 slope.
- D. Mobile homes which are nonconforming uses may be replaced with another such structure by making application for a conditional use. The compatibility of the replacement dwelling with neighboring dwellings shall be considered in reviewing the conditional use request.
- E. A mobile home or manufactured dwelling may be located temporarily on land owned by the occupant during the construction of a dwelling. Placement shall not occur until construction has actually commenced. The unit shall be removed after one year or upon completion of the dwelling, whichever occurs first.
- F. All mobile homes and manufactured homes as defined in Article 26.00 must be located in conformance with these requirements.

**12.06 Accessory Building and Uses.** The regulations regarding accessory buildings and uses shall be as follows:

A. Limited Use. Accessory buildings and uses are buildings and uses customarily incident to any of the permitted uses in the district in which it is located. In the A, F, RR and R districts, accessory buildings and uses are limited to:

1. A noncommercial greenhouse that does not exceed in floor area twenty-five (25) percent of the ground floor area on the main building.
2. A private residential garage used only for the storage of noncommercial vehicles and other related material.
3. Tennis court, swimming pool, garden house, pergola, ornamental gate, barbeque oven, fireplace, and similar uses customarily accessory to residential uses.
4. Home occupation in conformance with Section 12.03.
5. Temporary storage and distribution of seed and similar type products provided the use is located within a farmstead, the product is stored within a completely enclosed building typical of farm buildings and the use is limited to the seasonal sale of products from the premises.

B. Setback Requirements.

1. Accessory buildings which are attached to or located within ten (10) feet of the main building shall be considered a part of the main building and shall comply with the same yard requirements as the main building.
2. Accessory buildings not a part of the main building, when located in the required rear yard, shall be no closer than three feet to the side and rear property lines.

C. Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

1. In the A and F Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.
2. In all Residential Districts, the total area of accessory buildings shall not exceed 1200 square feet unless a conditional use has been approved.
3. In a Planned Development District, the total area of accessory buildings shall not exceed 1200 square feet unless a minor amendment has been approved.

12.07 Reserved.

12.08 Reserved.

**12.09 Concentrated Animal Feeding Operations.**

- A. Intent. It is the intent of this section to provide for a viable livestock industry within agriculturally zoned areas of Turner County, protect ground and surface waters and ensure that concentrated animal feeding operations are properly sited, maintained, and managed.
- B. Conditional Use Permit ~~for Class A Concentrated Animal Feeding Operations Required~~. Any person who owns, ~~operates, or~~ proposes to own, manages, or operates a ~~Class A concentrated animal feeding operation~~ Large A Concentrated Animal Feeding Operation, as ~~those terms are~~ defined in these ~~regulations~~ Ordinances, shall be required to ~~apply~~ obtain a Turner County Conditional Use Permit for Concentrated Animal Feeding Operation. The burden of proof shall be on the Applicant to show they should be granted a Turner County Conditional Use Permit for a ~~conditional use permit~~ Large A Concentrated Animal Feeding Operation.
- C. ~~Classes~~ Number of Animals for Concentrated Animal Feeding Operations: For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into ~~the following classes:~~ Large A, Large B, Medium, and Small operations. The following table defines each type of animal confinement (species) with the number of animals indicated. All animal classifications are based upon the standard animal numbers incorporated into the SD Department of Environment and Natural Resources (SD DENR) General Permit for feedlot operation.

<u>ANIMAL UNITS</u>	
<del>Class A</del>	<del>2,500 or more</del>
<del>Class B</del>	<del>1,000 to 2,499</del>
<del>Class C</del>	<del>300 to 999</del>
<del>Class D</del>	<del>50 to 299</del>

~~D. Standards to be Utilized by the Board of Adjustment for Conditional Use Permits for Concentrated Animal Feeding Operations.~~

<u>Type of Concentration Animal Feeding Operation</u>	<u>Large A Animal Numbers Equal to or More Than:</u>	<u>Large B Animal Numbers Equal to:</u>	<u>Medium Animal Numbers Equal to:</u>	<u>Small Animal Numbers Less Than:</u>
<u>Dairy cows (mature – milked or dry)</u>	<u>1,750</u>	<u>700 to 1,749</u>	<u>200 to 699</u>	<u>200</u>
<u>Veal Calves</u>	<u>2,500</u>	<u>1,000 to 2,499</u>	<u>300 to 999</u>	<u>300</u>
<u>Cattle other than mature dairy cows or veal calves<sup>1 and 2</sup></u>	<u>2,500</u>	<u>1,000 to 2,499</u>	<u>300 to 999</u>	<u>300</u>
<u>Swine (weighing more than 55lbs)</u>	<u>6,250</u>	<u>2,500 to 6,249</u>	<u>750 to 2,499</u>	<u>750</u>
<u>Swine (weighing less than 55lbs)</u>	<u>25,000</u>	<u>10,000 to 24,999</u>	<u>3,000 to 9,999</u>	<u>3,000</u>
<u>Horses</u>	<u>1,250</u>	<u>500 to 1,249</u>	<u>150 to 499</u>	<u>150</u>
<u>Sheep or Lambs</u>	<u>25,000</u>	<u>10,000 to 24,999</u>	<u>3,000 to 9,999</u>	<u>3,000</u>
<u>Turkeys</u>	<u>137,500</u>	<u>55,000 to 137,499</u>	<u>16,500 to 54,999</u>	<u>16,500</u>
<u>Laying hens or broilers<sup>3</sup></u>	<u>75,000</u>	<u>30,000 to 74,999</u>	<u>9,000 to 29,999</u>	<u>9,000</u>
<u>Chickens, other than laying hens<sup>4</sup></u>	<u>312,500</u>	<u>125,000 to 312,499</u>	<u>37,500 to 124,999</u>	<u>37,500</u>
<u>Laying hens<sup>4</sup></u>	<u>205,000</u>	<u>82,000 to 204,999</u>	<u>25,000 to 81,999</u>	<u>25,000</u>
<u>Ducks<sup>3</sup></u>	<u>12,500</u>	<u>5,000 to 12,499</u>	<u>1,500 to 4,999</u>	<u>1,500</u>
<u>Ducks<sup>4</sup></u>	<u>75,000</u>	<u>30,000 to 74,999</u>	<u>10,000 to 29,999</u>	<u>10,000</u>
<u>Geese</u>	<u>75,000</u>	<u>30,000 to 74,999</u>	<u>10,000 to 29,999</u>	<u>10,000</u>

<sup>1</sup> Animals are counted individually once separated from the mother.

<sup>2</sup> Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

<sup>3</sup> Concentrated animal feeding operation uses a liquid manure handling system.

<sup>4</sup> Concentrated animal feeding operation uses other than a liquid manure handling system.



NOTE: Other animal types not listed in the above table may be considered on a case-by-case basis by the Board of Adjustment.

~~D. The decision of the Board of Adjustment shall be based on the standards for approval set forth below.~~

1. Required Minimum Setbacks and Separation Distances for New Concentrated Animal Feeding Operations; Exemption from Setback and Separation Distances Under Certain Limited Circumstances:

There shall be minimum setback and separation distances for all new concentrated animal feeding operations and changes in operation in any existing concentrated animal feeding operation. No concentrated animal feeding operation shall be permitted that is closer than the separation distances set forth in this Ordinance, unless that operation falls within the specific exception set forth in this Ordinance. The required minimum setbacks and separation distances shall be as follows:

	<u>Large A</u>	<del>Class A and</del> <u>Large B</u>	<del>Class C</del> <u>Medium</u>	<del>Class D</del> <u>Small</u>
<del>Established</del> Dwellings, Churches, Schools, Businesses, Designated State or County Park	<u>2,640</u>	<del>1,980 feet plus 100 ft. per additional 500 animal units over 2,500 animal units</del> <u>1,980</u>	<u>1,320 feet</u>	<u>660 feet</u>
Incorporated <del>Municipalities</del> <u>Municipality Limits</u>	<u>10,560 feet</u>	<del>5,280 feet plus 400 ft. per each additional 1,000 animal units over 2,500 animal units</del> <u>5,280 feet</u>	<u>5,280 feet</u>	<u>1,320 feet</u>
Existing Swine Feeding Operation over 300 AU – only related to new swine feeding operations	<u>5,280 feet</u>	<u>5,280 feet</u>	<u>5,280 feet</u>	<u>2,640 feet</u>
Public Water Supplies	<u>1,000 feet</u>	1,000 feet	1,000 feet	1,000 feet
Private Wells (other than owner’s or operator’s)	<u>250 feet</u>	250 feet	250 feet	250 feet
Private Wells (owner’s or operator’s)	<u>150 feet</u>	150 feet	150 feet	150 feet
Lake, Rivers and Streams classified as Fisheries	<u>500 feet</u>	500 feet	200 feet	200 feet
Designated 100 Year Flood District	<u>Prohibited</u>	Prohibited	Prohibited	Prohibited

Designated Aquifer Protection Dist.	<u>Prohibited, unless the Applicant can show by appropriate soil borings that the site is appropriate or State Permitted.</u>	Prohibited, unless the Applicant can show by appropriate soil borings that the site is appropriate or State Permitted.	Prohibited, unless the Applicant can show by appropriate soil borings that the site is appropriate or State Permitted.	Prohibited, unless the Applicant can show by appropriate soil borings that the site is appropriate or State Permitted.
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Setbacks shall be measured from the outermost point of the concentrated animal feeding operation to the structure/use as identified above.

The minimum separation listed above shall be used in siting a concentrated animal feeding operation. When a proposed operation does not meet the minimum separation criteria, the applicant shall submit to the ~~Board of Adjustment a~~Zoning Administrator sufficient documentation of one of the following or a combination thereof:

1. A signed waiver from each landowner located closer than the minimum separation criteria. No building permit shall be issued until the waivers are filed with the County Register of Deeds.

~~2. Fly and Odor Control. Class~~

2. In the absence of a waiver, documentation shall be presented to the Board of Adjustment on new technology, management practices, topographic features, soil conditions or other factors which substantiate a reduction in the minimum separation criteria.

E. Standards to be Utilized by the Board of Adjustment for Conditional Use Permits for Concentrated Animal Feeding Operations. The Turner County Board of Adjustment may, in its discretion, approve or deny applications for Conditional Use Permits for Concentrated Animal Feeding Operations. The decision of the Board of Adjustment shall be based on the standards for approval set forth below.

1. Fly and Odor Control. Large A Concentrated Animal Feeding Operations shall dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. The County Board of Adjustment will review the need for control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The Applicant shall provide the Board of Adjustment with a Fly and Odor Control Plan that will provide sufficient information for the Board of Adjustment to determine whether adequate safeguards exist to protect the public from flies and odors. ~~Information in the Fly and Odor Control Plan shall contain the information necessary to allow the Board of Adjustment to determine what conditions may be necessary to reduce fly and odor problems, as set forth below.~~

32. Conditions on Permit Allowed. Any Turner County Conditional Use Permit for Concentrated Animal Feeding Operations may be approved by the Board of

Adjustment, subject to any reasonable conditions, including, but not limited to, the following:

~~4. If required by the South Dakota Department of Environment and Natural Resources or as a condition of the conditional use permit the operation shall obtain a State General Water Pollution Control Permit.~~ a. Demonstration of, or requiring, adequate methods to be utilized to dispose of dead animals.

b. Demonstration of, or requiring, trees and shrubs to be planted to reduce wind movement of odors away from buildings, manure storage ponds and/or lagoons. A minimum of four rows of trees, with each row being at least ten feet apart, according to the generally accepted practices and recommendations of NRCS, or its successor or equivalent agency, must be planted and maintained. The planting of trees must be within one year of the start of the use of the facility.

c. Demonstration of, or requiring, adequate slope and drainage at the proposed site to remove surface water from pens and keep the pen area dry so odor production is minimized.

d. Demonstration of, or requiring, manure storage in containment areas having good drainage to minimize odor production.

e. Demonstration of, or requiring, removal of manure from open pens as frequently as possible to minimize odor production.

f. Consider the use of covers on open storage systems for liquid manure systems to reduce odor production.

g. Consider alternatives to the spreading of manure on weekends, holidays and evenings during warm seasons when neighbors may be involved in outdoor recreation activities. Consider alternatives to spreading manure in such situations whenever possible.

h. Requiring the application of liquid manure to be completed by an injection or knifing in process.

i. Requiring the proper maintenance of the facility, including, but not limited to, the completion of dirt work, proper handling of garbage and waste, and proper drainage.

3. State Permits. When a state permit is required, the operator shall file copies of all state-approved construction plans with the ~~County~~ Zoning Administrator.

54. Manure Application Setbacks. No person, owner, employee, contractor, agent, or similar person associated in any way with the holder of a Turner County Conditional Use Permit for a Concentrated Animal Feeding Operation shall apply manure to any location in Turner County unless the application of manure is performed in accordance with the minimum manure application setbacks set forth in this

Ordinance. The following manure application setbacks apply to all Concentrated Animal Feeding Operations.

**COUNTY MANURE APPLICATION SETBACKS**

<b>CATEGORY</b>	<b>SURFACE OR IRRIGATION APPLIED</b>	<b>INCORPORATED OR INJECTED</b>
Lakes, Rivers, and Streams Classified as Fisheries	300 feet (lakes) 50 feet (river & stream)	100 feet (lake) 50 feet (river & stream)
Stream & Lakes classified as Drinking Water supplies	1,000 feet	300 feet
Public Wells	1,000 feet	1,000 feet
Private Wells	250 feet	250 feet
Residence (other than the operator)	300 feet (surface) 1,000 feet (irrigation)	300 feet
Natural or Manmade Drainage Ditch or Canal	200 feet	50 feet
<a href="#">Incorporated Municipality Limits</a>	1,000 feet	1,000 feet

- 65. Additional Standards Allowed. The County Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which are reasonable and related to the use being controlled.
- 76. Sufficient Land for Manure Application Required. Conditional use permits for Concentrated Animal Feeding Operations shall be in effect only as long as sufficient land specified for manure management purposes is available for such purposes and other provisions of the permit are being adhered to.
- 87. Consideration of Past Violations. When considering an application, the County Board of Adjustment shall take into consideration any current and past violations of any local, State, or Federal permit or similar approval for the operation of a concentrated animal feeding operation, or any local, State, or Federal law relating to Concentrated Animal Feeding Operations that the applicant has an interest in. Evidence of any such violation shall be documented by some action on the part of any public entity to enforce any local, State, or Federal law, or by any evidence that would typically be deemed to be admissible in a court of law in the State of South Dakota.
- 98. Additional Standards. Those standards found in Section 19.09.
- EF. Information Required for ~~Class~~[Large](#) A Concentrated Animal Feeding Operation Permit. Any applicant for a Turner County Conditional Use Permit for Concentrated Animal Feeding Operations shall provide the following information to the Zoning Administrator prior to consideration by the Board of Adjustment:

1. The owners', managers', management company's, or similar entities' name, address and telephone number.
2. Legal descriptions of site.
3. The number and type of animals to be housed.
4. A fly and odor control plan.
5. Information on ability to meet designated setback requirements.
6. Plans and Specifications of the proposed site and ~~an~~ Initial Nutrient Management Plan.
7. Information on the types of soils at the site, and whether there are any shallow aquifers, designated wellhead protection areas, and 100-year floodplain designations at or within one half mile of the proposed site.
8. Site Plan of ~~the land utilized for manure application~~ all existing and proposed buildings and structures.
- ~~9. Site Plan of all existing and proposed buildings and structures.~~
- ~~10.~~ Provide Farm Service Agency wetland map.
- ~~11. Test boring location and test boring results, which must be supplied to the Board at least five days before any hearing on an application.~~
- ~~12~~10. The County Board of Adjustment or the Zoning Administrator may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.
11. Information on whether the applicant has ever violated any of the conditions or provisions of any Turner County Conditional Use Permit, Turner County Conditional Use Permit for Concentrated Animal Feeding Operation Permit, or similar permit in any other county in the State of South Dakota, or any state in the United States.

G. Inspection of a Concentrated Animal Feeding Operation to Verify Compliance. To assist the Zoning Administrator in these inspections, the holder of the Permit shall provide any relevant information requested by the Zoning Administrator. When granted a Conditional Use Permit for Concentrated Animal Feeding Operation, or their successors-in-interest, shall provide reasonable information to the Zoning Administrator, at least once per year, to show their compliance with the terms and conditions of the Permit. After such information is provided the Zoning Administrator may conduct an inspection of the site. Additional information shall be provided to the Zoning Administrator at his or her request, if reasonably related to the purpose and intent of the Conditional Use Permit for Concentrated Animal Feeding Operations, the intent of the Board in approving the Permit, or if such information is in the public interest. Any delay in providing such information, or a refusal to provide such information is grounds for the suspension or revocation of the Conditional Use Permit for Concentrated Animal Feeding Operations. This provision will apply to any Conditional Use Permit issued after January 15, 2004.

### **12.10 Temporary Uses.**

- A. Intent. The requirements of this section are intended to provide for the regulation and permitting of uses and associated improvements on private property which are not so recurring in nature as to constitute a permanent use. These requirements are not intended to regulate temporary uses on public property, including public rights-of-way.

- B. Permit Required. No person shall operate a temporary use without first obtaining a permit therefore from the Zoning Administrator as prescribed in this section. If an objection is filed pursuant to Section 12.10 (E) or if the Zoning Administrator determines that a hearing should be held due to the scope of the proposed use, the Zoning Administrator shall refer the temporary use application to the Planning Commission for action.
- C. Applications.
1. Submission deadline. All applications for a temporary use permit shall be made at least 60 days prior to the proposed commencement date of the use, provided that the Zoning Administrator may approve a lesser time consistent with the requirements of this section.
  2. Temporary use plan. All temporary uses shall be subject to approval of a temporary use plan. The plan shall describe the nature and location of all temporary improvements and activities, the location of any permanent buildings intended to be used, the time period for which the temporary use permit is requested, and such other information in sufficient detail as the [Zoning Administrator](#) determines is reasonably necessary to adequately review the application and to ensure the use will be conducted in a manner consistent with the requirements of this section.
- D. Standards for review. The following standards shall be used in determining the suitability and compatibility of a temporary use:
1. The temporary use will have no adverse effect on nearby properties or jeopardize public health, safety, and general welfare.
  2. The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.
  3. The site is adequate to accommodate the proposed use, including the provision for on and off site parking.
  4. Adequate sanitation facilities will be available on the site.
  5. The time period and hours of operation for the temporary use are clearly specified.
  6. Provision is made for the removal, clean-up, and restoration of the site.
  7. The temporary use will not adversely impact the natural environment.
  8. The site is suitable for the proposed temporary use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health or property.

9. All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county's building code.
- E. Notice. The Zoning Administrator shall send written notice of the temporary use permit application to the owners of all property located within at least 600 feet of the property involved. Such notice shall be sent at least 14 days before the Zoning Administrator makes his or her determination on the temporary use permit. If any of the owners so notified file a written objection prior to the time the Zoning Administrator makes his or her determination regarding the application, the application shall be referred to the Planning Commission for action.
- F. Conditions of approval. Reasonable conditions may be required in connection with the approval of any temporary use permit which are deemed necessary to protect the public health, safety and welfare and the social and economic well being of those who will use the temporary use, residents and landowners immediately adjacent to the proposed use, and the community as a whole. Any condition imposed must be clearly specified in writing on the temporary use permit.
- G. Appeal of decision. Any person aggrieved by an action of the Zoning Administrator in granting, denying, revoking, or suspending a temporary use permit may appeal such action to the Planning Commission. Such appeal shall be in writing and filed with the Zoning Administrator within five working days of the decision. The action of the Planning Commission may be appealed to the Board of County Commissioners in the same manner.
- H. Fee. A fee of \$50 shall accompany the application for a temporary use permit.
- I. Exemptions. The following uses shall not require a temporary use permit:
  1. Estate or real estate sales involving the property or items from the property where the sale is held.
  2. Garage, yard or rummage sales provided:
    - a. Sales last not longer than three (3) days.
    - b. Sales are held no more than twice yearly.
    - c. Sales are conducted on the owner's property or one of the owner's property in case of a multi-party sale.
  3. Weddings, purely social parties or similar family events where the function or event involves the owner or lessor of the property and where no monetary consideration or fees for such use of the property or attendance is involved.

## **12.11 Telecommunications Towers, Antenna Support Structures and Wireless Communications Facilities.**

- A. Intent and Purpose. The unique and diverse landscapes of Turner County are among its most valuable assets. Destroying these assets risks undermining the very characteristics responsible for our economic vitality and future potential. Protecting these assets will require that location and design of tower facilities be sensitive to, and in scale and harmony with, the aesthetics of Turner County. This section will provide standards for the proper placement and design of tower facilities in order to ensure their compatibility with surrounding aesthetics and development.

The purpose of this section is to provide predictable and balanced standards for the siting of tower facilities on both public and private property within the jurisdiction of Turner County. These standards will protect the health, safety and general welfare of persons in the area(s) surrounding such tower facilities from possible adverse aesthetics related to the placement, construction or modification of such tower facilities.

Leasing of public buildings, publicly owned structures, and/or public rights-of-way for the purposes of locating wireless telecommunication services facilities and/or equipment is encouraged. In cases where a facility is proposed on County property, specific locations and compensation to the County shall be negotiated in lease agreements between the County and the provider on a case-by-case basis, and would be subject to all of the review criteria contained in this section. Such agreements would not provide exclusive arrangements that could tie up access to the negotiated site(s) or limit competition, and must allow for the possibility of "co-locating" (sharing of facilities) with other providers.

Regulations regarding development of telecommunications towers, antenna support structures and wireless communications facilities are intended to encourage development of a competitive wireless communications market place while protecting the health, safety and welfare of the public and maintaining the aesthetic integrity of the County. The regulations cover placement, construction and modification of telecommunications towers, antenna support structures and wireless communications facilities. The intent of this section includes the following:

1. To regulate the location of telecommunication towers, antenna support structures and wireless communication facilities.
2. To protect residential areas and land uses from potential adverse impact of telecommunications towers, antenna support structures and wireless communication facilities.
3. To promote shared use and co-location of sites.
4. To insure telecommunications towers, antenna support structures and wireless communication facilities are compatible with surrounding land uses.



5. To facilitate the provision of services to residents and businesses in an orderly fashion.
6. To promote the location of telecommunications towers, antenna support structures and wireless communication facilities in non-residential areas.
7. To avoid potential damage to property caused by telecommunications towers, antenna support structures and wireless communication facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound. Specifically, the Telecommunication Act of 1996 affirms the local government's right to control the siting, construction and modification of cellular and other wireless telecommunication facilities. The permitting process of this article will not discriminate among providers of functionally equivalent services and will not prohibit the provisions of personal wireless services.

B. **Applicability.** It shall be unlawful for any person, firm, or corporation to erect, construct in place, or place any tower facility without first receiving a permit(s) from the Zoning Administrator. Nor may any person, firm, or corporation alter, modify, transform, add to or change in any way an existing tower facility without first receiving a permit(s) from the Zoning Administrator.

C. **General Standards.**

**Setback:** There shall be a minimum setback of 300' from the tower base to any existing residence or proposed residential development area based on the land use plan except the farmstead residence on the proposed site. Building structures must meet County setback requirements. Towers shall be no more than 200' in height. Towers exceeding 200' may be considered, if FCC and FAA approval is received.

**Fencing:** The tower facility shall be protected by a security fence from six (6) feet to eight (8) feet in height around the perimeter of the site.

**Signage:** The owner's name, telephone number and site ID number shall be posted on the gate of a perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except applicable warning and equipment information as required by the manufacturer or by federal, state or local authorities.

**Lighting:** The light source for any necessary security lighting shall feature down-directional, sharp cut-off luminaries that insure there is no spillage of illumination off the parcel or easement boundary.

Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstance.

All sites and equipment shall be maintained in good condition, order and repair so they shall not endanger the life or property of any person.

| D. Application Requirements.

1. The Zoning Administrator may contract with an independent technical expert to review technical materials submitted by the applicant, and/or to determine if additional information is necessary. The tower facility applicant shall pay the cost of such review and/or independent analysis.
2. Name and address of the tower facility owner, record landowner of parcel and any duly appointed agents of the parties.
3. Site plan(s) drawn to a scale of one (1) inch equals twenty (20) feet or less, specifying the location of the tower facility, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting, landscaped areas and all adjacent land uses within three hundred (300) feet of the base.
4. Elevation drawings of "before" and "after" simulating and specifying ground levels, the location and height of antenna(s), support structures, equipment buildings and/or other accessory uses, fences and signs of the tower facility.
5. Map showing the search radius for the antenna location and the proposed broadcast coverage obtained by the tower facility, including a narrative describing a search radius of not less than one (1) mile for the requested site, clearly explaining why the site was selected, identifying and locating landing and takeoff areas of aircraft within the search radius, locating all existing tower facilities, and identifying all other structures that may be potential co-location sites.
6. Description of the tower facility design. (e.g. monopole)

E. Other Requirements. The County may require additional information from the applicant and impose additional standards, regulations or requirements as deemed necessary to protect the public health, safety and welfare. If the Planning Commission considers the information provided inadequate or if the applicant fails to supply required information, the Planning Commission may deny the application on this basis. Other requirements include, but are not limited to, the following:

1. A copy of the FAA determination or a signed statement that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.
2. A copy of the FCC's license or a signed statement from the proposed operator of the tower facility attesting to the fact that the tower facility complies with current FCC regulations, including compliance with the regulations of the FCC with regard to maximum radio frequency and electromagnetic frequency emissions, or a statement from the applicant that no such compliance is necessary, and the reasons therefore.

- F. Exemptions. Towers exempt from the permitting process include the following:
1. Residential use no more than ten (10) feet above average existing tree canopy or roof line.
  2. Additions to existing towers which meet the standards of this section and do not increase the tower height.
  3. Normal maintenance to existing tower facilities.
- G. Existing Tower Facilities. Existing tower facilities may continue in use and perform routine maintenance for the purpose now used and may not alter, convert, modify, transform, vary, add to or change in any way the form without complying with Section 12.11.
- H. Maintenance. All tower facilities shall be maintained in a safe and clean manner. The tower facility owner shall be responsible for maintaining a graffiti, debris and litter free site. The landscape plan shall be maintained for the life of the tower facility. Trimming the tops of trees on site shall be allowed, only to maintain the average height of the canopy used to establish tower facility height. All tower facilities shall be subject to periodic inspection to ensure continuing compliance with all conditions of the application submitted and approval requirements.

Telecommunications towers, antenna support structures and wireless communications facilities shall be maintained in compliance with Electronic Industries Association/ Telecommunications Industries Associations Standards (latest revision), all applicable laws and so as not to interfere with the use of other property.

Upon the Zoning Administrator's determination that a tower site is a hazard to public safety, the owner shall be required to perform an inspection by a registered professional engineer and make all recommended corrections at the owner's expense.

#### **12.12 501(d) Non-Profit Religious and Apostolic Associations.**

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

**Article 13.00**  
**Additional Yard Regulations**

**13.01 Number of Main Buildings on Tract.** No more than one main building shall be located on a tract or lot when used for residential purposes. Where a lot or tract is used for an agricultural, commercial, or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot or tract for the district in which the lot or tract is located.

**13.02 Adjustment to Front Yard Requirements.** Where, on the effective date of this ordinance, forty percent (40%) or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner:

- A. Where the building further most from the street provides a front yard not more than ten (10) feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.
- B. Where this (A) is not the case and a lot is within one hundred (100) feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.
- C. Where neither (A) nor (B) is the case, and the lot is within one hundred (100) feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.

**13.03 Adjustment to Side Yard Requirements.** Buildings with side yard setbacks less than required by this ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

**13.04 Projections from Buildings.** Every part of any required yard shall be open to the sky and unobstructed except:

- A. Eaves may project into a front or rear yard thirty-six (36) inches, exclusive of gutters;
- B. Eaves may project into a side yard twenty-four (24) inches, exclusive of gutters;
- C. Ordinary projection of sills, belt courses, cornices, vertical solar screen, and ornamental features which may project twelve (12) inches;
- D. Air conditioners, or parts thereof, may project into a required side yard, provided that such projections shall be distant at least three (3) feet from the adjacent lot line and shall not extend more than three (3) feet from the building. Such air conditioners may project into a required front yard, but shall not extend more than three (3) feet from the building, and such air conditioner may extend into one side of a corner lot;

- E. Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten (10) feet.

**13.05 Porches and Terraces in Front Yards.** An open, unenclosed porch may project into a required front yard for distance not exceeding ten (10) feet. Balconies and paved terraces may project into a required front yard for a distance not exceeding six (6) feet. An enclosed vestibule containing not more than forty (40) square feet may project into a required front yard for a distance not to exceed four (4) feet.

**13.06 Projection of Terraces, Porches, Platforms, and Ornamental Features.** Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three (3) feet above the floor level of the ground (first) story may project into a required side or rear yard, provided these projections be distanced at least three (3) feet from the adjacent side lot line.

**13.07 Double Frontage Lots.** Where lots have double frontage, the required front yard shall be provided on both streets.

**Article 14.00**  
**Additional Height Regulations**

**14.01 Exceptions.** The height regulations established in this ordinance shall not be applied to flag poles, domestic television antennas, church spires, chimneys, broadcast towers, telecommunication towers and water towers.

**14.02 Mechanical Appurtenances.** All necessary mechanical appurtenances placed on the roof, including but not limited to, air conditioning units, heating units, elevator penthouses, communications towers, and satellite receiving dishes, located on top of a building, are exempt from the height regulations of this ordinance as follows:

- A. No such appurtenances shall exceed twelve (12) feet in height above the maximum permitted in the district in which they are located.
- B. All said appurtenances must be set back a minimum of twelve (12) feet from all faces of a building when said faces are adjacent to the street.

**Article 15.00**  
**Parking and Loading Regulations**

**15.01 Location.** All parking required by this article shall be located in conformance with the following requirements:

- A. The parking lot shall maintain a minimum setback of fifteen (15) feet from the front property line.
- B. Parking spaces for all structures shall be located on the same site as the structure such parking is intended to serve; except that by conditional use, parking may be located within 300 feet of the use it is intended to serve.

**15.02 Off-Street Parking Requirements.** Off-street parking for specific uses shall be required as follows:

- A. Single Family and Two-family Dwellings: Two spaces for each dwelling unit.
- B. Multiple Dwellings: One and one-half spaces for each dwelling unit of one bedroom or less. Two spaces for each dwelling unit of two bedrooms or more.
- C. Multiple dwellings for the elderly and handicapped: 1 space for each dwelling unit.
- D. Rooming and Boarding Houses, Sororities, and Fraternities: One space per two beds.
- E. Private Club or Lodge: One parking space for each 300 square feet of floor area.
- F. Church or Temple: One parking space for each three seats in the main auditorium.
- G. School:
  - 1. Colleges and Universities: Because of the unique parking needs of colleges and universities, a permit application for new construction must include a parking study prepared by the applicant of the parking needs of the entire campus including the new use and the study must address a plan to meet the parking needs of the staff and students.
  - 2. High Schools: One parking space for each three students based on the building's design capacity.
  - 3. Junior High School: 25 spaces plus one parking space for each teacher and staff member.
  - 4. Elementary School: five spaces plus one parking space for each teacher and staff member.

- H. Hospital: One and one-half parking spaces for each bed.
- I. Sanitarium or Institutional Home: One parking space for each three beds.
- J. Mortuary: One space for each fifty square feet of floor area in slumber rooms or one for each four seats in chapel, whichever is greater.
- K. Auditoriums, Theaters, Other Places of Public Assembly: One parking space for each four seats.
- L. Community Center, Library, Museum or Similar Public or Semi-public Buildings: Ten parking spaces plus one additional space for each additional 300 square feet of floor area in excess of 2,000 square feet.
- M. Hotel or Motel: Five parking spaces plus one space for each sleeping room or suite.
- N. Medical Office Building: Buildings in which 20 percent or more of the gross area is occupied by members of healing profession. One parking space for each 200 square feet of the gross area used for medical purposes.
- O. Manufacturing or Industrial Establishments, Research or Testing Laboratory, Bottling Plant, Warehouse, or other Similar Establishments: Two parking spaces for each three employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection therewith.
- P. Restaurant, Bar, Cafe or Recreation or Amusement Establishment Not Specified Herein: One parking space for each 100 square feet of floor area or one parking space per three fixed seats, which ever is greater.
- Q. Bowling Alley: Three spaces per alley.
- R. Personal Services: One parking space for each 200 square feet of floor area.
- S. Retail Stores Selling Furniture, Appliance, or Home Improvement Products (ie. carpet, paint, wall paper, etc.): One parking space for each 600 square feet of floor area.
- T. Other Retail Uses: One parking space for each 300 square feet of gross floor area except for planned shopping centers of 100,000 square feet of floor area or more who may reduce their requirement to one space for each 400 square feet of floor area.
- U. All Nonresidential Buildings, Except Those Specified Above: One space for each 300 square feet of floor area.

**15.03 Rules for Computing Parking Spaces.** In computing the number of required off-street parking spaces, the following rules shall be applied:



- A. Floor area shall mean the gross floor area of the specific use, excluding any floor or portion thereof used for parking as herein defined.
- B. Where fractional spaces result, the number of parking spaces required shall be the nearest whole number.

**15.04 Minimum Improvement and Maintenance Standards.** Driveways, parking lots, and loading/unloading areas shall conform with the following improvement and maintenance standards:

- A. If a driveway, parking lot or loading/unloading area is not hard surfaced with concrete or asphalt, a gravel surface shall be provided. The gravel surface shall be maintained to a minimum thickness of at least four inches.
- B. Adequate provisions shall be made for the disposal of storm water from a driveway, parking lot or loading/unloading area and the owner shall insure that such water does not flow onto adjoining property in a quantity or manner that would be detrimental thereto.
- C. The entrances and exits to and from any parking lot or loading/unloading area shall be approved by the Zoning Administrator. Proper directional signs shall be provided.

**15.05 Off-Street Loading Requirements.**

- A. There shall be provided at the time any building is erected or structurally altered, off-street loading spaces in accordance with the following requirements:

- 1. Office Buildings:

5,000 to 25,000 sq. ft. of GFA\*.....One 12' X 20' loading space

25,001 to 50,000 sq. ft. of GFA.....One 14' X 80' loading space

50,001 to 200,000 sq. ft. of GFA.....Two 14' X 80' loading spaces

Add one additional 14' X 80' loading space for each 75,000 square feet of gross floor area above 200,000 square feet.

\*GFA means gross floor area.

- 2. Retail or Service Establishment:

Less than 5,000 sq. ft. of GFA.....One 12' X 30' loading space

5,001 to 20,000 sq. ft. of GFA.....One 14' X 80' loading space

20,001 to 100,000 sq. ft. of GFA.....Two 14' X 80' loading spaces

Add one additional space for each 75,000 square feet of gross floor area above 1,000,000 square feet.

3. Wholesale, Commercial Use:

2,000 to 20,000 sq. ft. of GFA.....One 14' X 35' loading space

20,000 to 100,000 sq. ft. of GFA.....Two 14' X 80' loading spaces

Add one additional space for each 75,000 square feet of gross floor area above 100,000 square feet.

4. Manufacturing or Industrial Use:

One 14' X 80' space for each 20,000 square feet of gross floor area plus one 14' X 80' space for each portion thereof in excess of 50,000 square feet.

B. Loading spaces are to be provided on each lot in compliance with the following requirements.

1. The loading space shall be completely contained on the lot it is intended to serve.
2. The loading space shall be arranged on the lot in such a way as to allow normal movement of traffic in and around the loading area.
3. No loading space shall be permitted to extend into any public right-of-way.

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**Article 16.00**  
**On-Premise Signs**

**16.01 Intent.** These regulations provide standards for the erection and maintenance of private signs. The principal feature of this section is the restriction on the total sign area permissible per site. All private signs shall be erected and maintained in accordance with the following standards. The general objectives of these standards are to achieve the following:

- A. Safety: To promote the safety of persons and property by providing that signs:
  - 1. Do not create a hazard due to collapse, fire, collision, decay, or abandonment;
  - 2. Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to see and interpret any official traffic sign, signal or device.
  
- B. Communications Efficiency: To promote the efficient transfer of information by providing that:
  - 1. Businesses and services may identify themselves;
  - 2. Customers and persons may locate a business or service;
  - 3. No person or group is arbitrarily denied the use of the sight line from public rights-of-way for communication purposes.
  
- C. Landscape Quality and Preservation: To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
  - 1. Do not create a nuisance to persons using the public rights-of-way;
  - 2. Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement.

**16.02 Permitted Signs and Sign Area.** In the following districts, the sign area and height set forth shall apply to all signs on the premises except as provided in Section 16.05:

- A. A Agricultural and F Floodplain Districts:
  - 1. Signs advertising a product or business or the use of a particular breed, type, variety, hybrid, or brand of plant, chemical or tillage. No one sign shall exceed 160 square feet in area per face.
  - 2. Uses which are governed by conditional use may have signs on the premise in accordance with the stipulations of the permit.

3. No hunting, no trespassing and similar signs.
- B. RR Rural Residential and R Residential:
1. A four square foot wall or freestanding sign identifying a home occupation.
- C. C Commercial and I Industrial:
1. Wall, roof, or projecting signs:
    - a. The total sign area on structures which are two stories or less in height shall not exceed two square feet for each linear foot of building frontage.
    - b. The total sign area on structures which are greater than two stories in height shall not exceed either two square feet for each linear foot of building frontage, or 15% of the area of the frontage wall, whichever is greater.
  2. Freestanding signs having a total sign area not to exceed one square foot for each linear foot of road frontage or 288 square feet, whichever is less.
  3. The maximum sign height shall be 30 feet except when a sign is within 600 feet of a highway right-of-way, in which case the maximum height shall be 60 feet.

### **16.03 Regulations and Limitations of Permitted Signs.**

- A. Wall Signs. Wall signs may be located anywhere on the wall of a building.
- B. Projecting Signs.
1. Projecting signs may project no more than five feet from the building face.
  2. Projecting signs shall have a minimum clearance of ten feet above grade level above any yard or sidewalk and 16 feet above any road or drive.
  3. Projecting signs may project no more than five feet above the top of a parapet or roof line including the framework or support.
- C. Roof Signs. Roof signs shall rise no higher than five feet above the top of a parapet or roof line and shall not exceed the height limits for the zoning district.
- D. Freestanding Signs.
1. Freestanding signs shall be limited to one per street frontage except that businesses on frontages of 300 feet or more may erect two freestanding signs; however, the total sign area for both signs may not exceed that allowed for the street frontage.

2. Freestanding signs shall be located only in the front or side yard.
3. Freestanding signs shall not project over public property.
4. Freestanding signs shall not be erected within the area of a corner of two intersecting streets or a street and railroad. Area of a corner, in this case, shall be the triangular area formed by measuring forty (40) feet from the center of the intersection along both roads and connecting these two points with a straight line.

Exceptions: Freestanding signs may be located in the area of a corner when the sign and sign structure comply with the following:

- a. The sign face is located twelve (12) feet above grade level; and
- b. The sign structure is of such a size and spacing as to not obstruct the view of said intersection.

**16.04 Special Situations.** This section contains the sign regulations for the following special situations:

- A. Shopping Centers. A freestanding sign shall be allowed on each street frontage stating the name of the center and the major tenants provided no other freestanding signs are erected. The sign area shall be determined independently from the sign area allowed under 16.02. A sign area of one square foot for each one lineal feet of street frontage or 288 square feet per frontage, whichever is smaller, shall be allowed. The height shall not exceed 40 feet.

**16.05 Exemptions.** The following signs may be allowed in addition to the signs permitted in Section 16.02, but signs must be in conformance with all other state and local laws.

- A. Automobile Service Station. Gasoline dispensing stations may have, in addition to other signs, one twenty-four (24) square foot sign on each street frontage. Such signs shall be firmly attached to a structure and shall contain gasoline pricing information only.
- B. Construction Signs. Building contractors, lending institutions and professional firms may post temporary signs on site under construction. The total sign area shall not exceed 100 square feet or 20 feet in height and shall be removed upon completion of the project.
- C. Neighborhood Identification Signs. In any zone, a masonry wall, landscaping and other similar material or feature may be combined to form a display for neighborhood or tract identification, provided that the legend of such signs or display shall consist only of the neighborhood or tract name.
- D. Permanent Identification Signs. Churches, schools, day care centers, institutional and public uses in the agricultural and residential districts may have a sign not exceeding twenty-five (25) square feet in area per frontage.

- E. Public Signs. Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his duty shall be permitted.
- F. Integral Signs. Names of buildings, dates of erection, monumental citations, commemorable tablets, and the like, of permanent type construction and made an integral part of the building structure shall be permitted.
- G. Private Traffic Directional Signs. Signs directing traffic movement into, out of or within the commercial premise. Such signs shall not exceed an area of sixteen square feet per sign face and eight feet in height.
- H. Real Estate Signs. Temporary real estate signs shall be permitted.

**16.06 Illumination.** Regulations regarding the illumination of signs shall be as follows:

- A. Shading. The light from any illuminated sign or billboard shall be so shielded, shaded, or directed so that the light intensity shall not adversely affect surrounding or facing premises or safe vision of operators of vehicles on public or private roads.
- B. Blinking and Flashing. Blinking, flashing, pulsating, or fluttering lights, or other illuminated devices which have a changing light shall not be located closer than 300 feet from any residential district. This restriction shall not apply to signs displaying the date, time and temperature exclusively.

**16.07 Temporary and Portable Signs.** Temporary and portable signs shall not exceed thirty-two (32) square feet and may be displayed for sixty (60) days per calendar year in the C and I Districts. It shall be the duty of the user of the sign to:

- A. Notify and obtain approval from the Zoning Administrator prior to placement of said sign.
- B. Notify the Zoning Administrator upon removal of said sign. The Zoning Administrator shall continue to deduct one day from the sixty (60) days allowed per calendar year until notice of removal is received or a total of sixty (60) days has elapsed.
- C. Place the signs in locations so that the provisions of this article and all other applicable codes and ordinances are complied with. Temporary and portable signs in the A District, when used in conjunction with roadside stands and fireworks stands, shall be authorized as part of the conditional use granted to such uses.

**16.08 Prohibited Signs.** The following signs are prohibited:

- A. Parking of Advertising Vehicles Prohibited. No person shall park any vehicle or trailer on a public right-of-way, or public property so as to be visible from a public right-of-way, which has attached thereto or located thereon, any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity

located on the same premises or any other premise. This is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettering on a motor vehicle.

- B. Nuisance Signs. Signs which imitate an official traffic sign or signal or which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign or signal shall be removed upon notice.
- C. Banners. Banners shall be prohibited except on a temporary basis for a maximum of twenty-one (21) days during any calendar year.

**16.09 Maintenance and Removal.** Every on-premise sign, including any exempt from this code in respect to permits and permit fees, shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be removed or renovated within sixty (60) days upon written notice. If the owner fails to remove or renovate the sign within the required time period the County may remove such sign at the owner's expense.

**Article 17.00**  
**Off-Premise Signs**

**17.01 Purpose and Intent.** The purpose of this article is to prevent the uncontrolled use of off-premise signs so as to promote the health, safety and general welfare of those persons using the public rights-of-way. These regulations are intended to preserve the overall landscape quality of the county while allowing the reasonable use of signs to inform the traveling public. This is accomplished through the application of standards for size, illumination and separation.

**17.02 General Regulations.**

- A. In the A and F Districts, off-premise signs shall be limited to those which provide direction to a business or use and shall be constructed in accordance with the following:
1. A maximum sign area of 288 square feet.
  2. The sign shall contain the business name and directional information only.
  3. There shall be no more than one sign face per direction of facing.
  4. A sign shall not be within a 100 foot radius of any other off-premise sign intended to be read from the same right-of-way. The sign shall not be within a 100 foot radius of any other off-premise sign intended to be read from a different right-of-way. All spacing measurements in this subsection shall refer to a measurement made along the edge of the right-of-way and shall apply only to structures located on the same side of the highway. These spacing provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the road right-of-way at any one time.
  5. A sign shall not be illuminated with blinking or flashing lights.
  6. A maximum height of 16 feet.
- B. The following regulations shall apply to off-premise signs in the C and I Districts:
1. A maximum sign area of 288 square feet.
  2. There shall be no more than one sign face per direction of facing.
  3. The maximum height shall be 40 feet.
  4. No part of the sign face or structure shall be located in or overlap into the required side or rear yard setbacks or public right-of-way.
  5. A sign shall not be within a 100 foot radius of any other off-premise sign intended to be read from the same right-of-way. The sign shall not be within a 100 foot radius of



any other off-premise sign intended to be read from a different right-of-way. All spacing measurements in this subsection shall refer to a measurement made along the right-of-way and shall apply only to structures located on the same side of the highway. These spacing provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the road right-of-way at any one time.

6. The light from any illuminated sign shall be so shielded, shaded or directed so that the light intensity shall not adversely affect surrounding or facing premises or the safe vision of operators of vehicles on public roads.

### **17.03 Conditional Uses.**

- A. A conditional use shall be required for off-premise signs within 500 feet of a park, school, church, or designated historic site.

### **17.04 Exceptions.**

- A. Directional signs for nonprofit organizations not to exceed sixteen square feet per sign face.
- B. Political campaign signs that are temporarily placed on the ground.
- C. Directional signs, street name signs, or other signs which have been authorized and directed by a governmental unit.

### **17.05 Prohibited Signs.** The following signs are prohibited:

- A. **Parking of Advertising Vehicles Prohibited.** No person shall park any vehicle or trailer on a public right-of-way, or public property so as to be visible from a public right-of-way, which has attached thereto or located thereon, any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity. This is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettering on a motor vehicle.
- B. **Nuisance Signs.** Signs which imitate an official traffic sign or signal or which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign or signal shall be removed upon notice.

**17.06 Maintenance and Removal.** Every off-premise sign shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be removed or renovated within sixty (60) days upon written notice. If the owner fails to remove or renovate the sign within the required time period the County may remove such sign at the owner's expense.

**Article 18.00**  
**Nonconforming and Nonstandard Uses**

**18.01 Purpose and Intent.** The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue.

**18.02 Continuation of Nonconforming Uses.** Subject to the provisions of this article, the lawful use of a premise existing immediately prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof.

**18.03 Use Becoming Nonconforming by Change in Law or Boundaries.** Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions thereof.

**18.04 Change in Nonconforming Use.** If no structural alterations or additions are made, a nonconforming use may be changed to another nonconforming use of the same or a more restrictive classification. For the purposes of this article, each of the following classifications shall be considered to be "more restrictive" than those it precedes:

F	Floodplain
RR	Rural Residential
R	Residential
C	Commercial
I	Industrial

Whenever a nonconforming use has been changed to a more restrictive use or to a permitted use, such use shall not thereafter be changed to a less restrictive use.

**18.05 Extension or Enlargement.** A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located except that a conditional use permit may be authorized after the following criteria are given specific consideration:

- A. Effect on surrounding property values.
- B. The density of land use zoning for the subject and adjacent properties.
- C. The degree of hardship upon the applicant which would be caused by failure to grant the permit.
- D. It can be demonstrated that it was the owner's intent to use the entire premises for said use prior to the adoption, revision or amendment of this ordinance.

**18.06 Restoration After Damage.** When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than 60 percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located. Exception: Single family dwellings may be restored if damaged less than 100 percent.

**18.07 Discontinuance of Nonconforming Use.** In the event that a nonconforming use is discontinued for more than one year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located.

**18.08 Effect on Use Which is Illegal under Prior Law.** Nothing in this ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a premises in violation of zoning regulations in effect immediately prior to the effective date of this ordinance.

**18.09 Continuation of Nonstandard Uses.** Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

- A. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.
- B. Structural alteration of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located.
- C. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

**Article 19.00**  
**Conditional Use Permits**

**19.01 Procedure.** The Board of Adjustment may authorize by conditional use permit the uses designated in this ordinance when located in a zoning district allowing such use. The Board of Adjustment shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and to protect the health, safety, and general welfare in the issuance of such conditional use permit.

**19.02 Application.** To obtain a conditional use permit, the applicant shall file an application with the Zoning Administrator on a form as provided. Every application shall contain the following information:

- A. Legal description of the land on which such conditional use is requested.
- B. Name, address and phone number of the owner of the property which is the subject of such application.
- C. Name, address and phone number of the person making the application if made by anyone other than the owner.
- D. Zoning district classification under which the property is regulated at the time of such application.
- E. Any other information concerning the property as may be requested by the Zoning Administrator.

**19.03 Fees.** Upon the filing of any application for conditional use with the Zoning Administrator, the applicant shall pay to the County the appropriate fee as designated in Article 24.00.

**19.04 Information on Site Plan.** In addition to the following information, plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, rules, and regulations.

Exception: The Zoning Administrator may waive the submission of plans, if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

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

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

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

**19.05 Board of Adjustment Hearing.** Upon the filing of an application for a conditional use permit, the Zoning Administrator shall set a date for public hearing on such requested conditional use, at which time and place the Turner County Board of Adjustment shall meet to consider the conditional use request.

- A. Notice. No less than ten (10) days before the scheduled public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of general circulation in the area affected. The Zoning Administrator shall post notices of the public hearing at the Turner County Courthouse and on or near the property at least five days prior to the scheduled public hearing.
- B. Action. The Board of Adjustment shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Board of Adjustment shall be final unless an appeal is filed in accordance with Section 19.06.

**19.06 Appeals from Decision of Board.** Appeals may be taken to the Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the County, aggrieved by any decision of the Board of Adjustment, in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.

**19.07 Amendments.** Amendments shall be processed in the same manner as required for a separate conditional use permit.

**19.08 Expiration.** A conditional use permit which has been approved shall expire by limitation and become null and void if the building, work or use authorized by such conditional use permit is not commenced within two years from the date of approval. This provision shall not apply to a conditional use permit approved for a residential use in the A or F zoning districts. Upon written request to the Zoning Administrator and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the Zoning Administrator.

**19.09 Conditional Use Criteria.** The following considerations shall be employed when acting upon requests for conditional uses:

- A. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be controlled through the use of screening, setbacks, and orientation.
- B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

**19.10 Preexisting Uses.** An existing use eligible for a conditional use permit which was lawfully established on the effective date of this ordinance shall be deemed to have received a conditional use permit as herein required and shall be provided with such permit by the County upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in accordance with this ordinance shall be required.

**19.11 Reapplication.** No applicant requesting a conditional use permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Board of Adjustment shall be again considered by the Board of Adjustment before the expiration date of six (6) months from the date of the final action on the petition.

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

- A. **Basis for Review.** Noncompliance with any of the terms, conditions or requirements placed on a conditional use permit by Turner County is sufficient cause to subject such permit to review by the Turner County Board of Adjustment.
- B. **Procedure.** If the Zoning Administrator is reasonably satisfied there exists any noncompliance with the terms, conditions or requirements of a conditional use permit, the Zoning Administrator shall give written notice of such noncompliance to the person, firm, corporation or entity to which the permit was granted. Additionally, the Zoning Administrator shall advise the Board of Adjustment of such noncompliance at its next regularly scheduled meeting. Upon such advisement, the Board of Adjustment shall set a time for review of the permit at a subsequent regularly scheduled meeting. Such review will be open to the public.

- C. Notice of Review Hearing. At least ten (10) days prior to the hearing, the following shall occur:
1. The Zoning Administrator shall give written notice of the review hearing to the person or entity for whom the permit was authorized.
  2. -The Zoning Administrator shall be responsible for posting sign(s) on the property in such a manner so as to be clearly visible from the street, road or other public right-of-way from which entrance or access to the property is gained.
- D. Hearing. In the event the Board of Adjustment determines by substantial evidence that such compliance has not been established, it may do any of the following:
1. Revoke said permit.
  2. Amend said permit.
  3. Postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions and requirements of the permit in question.
  4. Require any other such action it deems appropriate and in accordance with the provisions of this Section.
- E. Effect of Revocation. Any person, firm, corporation or entity to which a conditional use permit has been granted and subsequently revoked by the Board of Adjustment may not apply for a conditional use permit pursuant to Section 19.02 for a period of six months.
- F. Appeal. Appeals from decisions made by the Board of Adjustment pursuant to this section shall commence and proceed in accordance with Section 19.06.

**Article 20.00**  
**Change of Zone**

**20.01 Application to County or by County for Zoning Change.** Any person, firm, or corporation desiring a change in regulations, restrictions, or boundaries of the zoning map of any property from one zoning district classification to another zoning district classification under this ordinance, shall make application for such change with the Zoning Administrator. Such application form shall be provided by the Zoning Administrator and be completed in full by the applicant.

The Board of County Commissioners may from time to time on its own motion, after public notice and hearing, and after a recommendation by the Planning Commission amend, supplement, or change the boundaries or regulations herein or subsequently established.

**20.02 Fees.** Upon the filing of any application for a zoning district classification change with the Zoning Administrator, the applicant shall pay to the County the appropriate fee as designated in Article 24.00.

**20.03 Planning Commission Hearing.** Upon the filing of an application and payment of the fee, the Zoning Administrator shall set a date for at least one public hearing at which time the Planning Commission will consider such requests for a change in zoning district classification. The date for a public hearing shall be a day when the Planning Commission is regularly scheduled to meet.

- A. Legal Notice. The Zoning Administrator shall cause to be published a legal notice as required in SDCL 11-2-29.
- B. Signs. A sign(s) to be provided by the Zoning Administrator shall be posted on or near the property at least five days prior to the scheduled hearing.
- C. Planning Commission Recommendation. The Planning Commission shall consider all applications for zoning district classification changes and make a recommendation to the Board of County Commissioners.

**20.04 Board Hearing.** The Board of County Commissioners shall conduct at least one public hearing on all applications which have been forwarded to them from the Planning Commission.

- A. Legal Notice. The Board shall cause to be published a legal notice as required in SDCL 11-2-19.
- B. Signs. A sign(s) to be provided by the Zoning Administrator shall be posted on or near the property at least five days prior to the scheduled hearing.
- C. Hearing. Upon the day of such public hearing, the Board shall review the decisions and recommendations of the Planning Commission on all applications. The Board, in making



its determination on such applications, may make changes in the zoning map in accordance with or in rejection or modification of the recommendations of the Planning Commission.

**20.05 Reapplication.** No application requesting a zoning district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission before the expiration of six months from the date of the final action of the Board.

**Article 21.00**  
**Zoning Board of Adjustment**

**21.01 Establishment.** The Turner County Planning Commission shall act as the Zoning Board of Adjustment. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances, grant conditional uses, and hear appeals to the terms of these regulations in harmony with the general purpose and intent and in accordance with general and specific rules herein contained.

**21.02 Operational Procedure.**

- A. The Board shall meet at the regularly scheduled meetings of the Planning Commission. All meetings of the Board shall be open to the public and all business coming before the Board shall be transacted at such meetings.
- B. The Board shall keep minutes of its proceedings, records of examinations and other official actions, all of which shall be filed in the office of the Zoning Administrator and shall be a public record.

**21.03 Appeals.** The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.

**21.04 Variances.** The Zoning Board of Adjustment shall not vary the regulations unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:

- A. The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- B. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification or other property substantially similar in use.
- C. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.
- D. The proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property; increase the congestion in the public streets; increase the danger of fire; endanger the public safety; or diminish or impair property values within the area.
- E. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- F. That the variance, if authorized, will represent the minimum variance that will afford reasonable relief and will represent the least modification desirable of the zoning regulations.
- G. The Board shall hear and make determinations on variance to exceed the height limits as established by these regulations.
- H. The Board of Adjustment, under its authority to grant variances may impose reasonable conditions on the grant, and one accepting those conditions is bound by them.

**21.05 Application to County for Variance.** Any person, firm or corporation desiring a variance or wishing to appeal a decision of the Zoning Administrator or authorized representatives shall make application for such request to the Zoning Administrator. Such application shall be provided by the Zoning Administrator and be completed in full by the applicant.

**21.06 Fees.** Upon the filing of any application for a variance or appeal by the Board, the applicant shall pay to Turner County the appropriate fee as designated in Article 24.00. These fees shall be utilized to help defray necessary administrative costs of processing the application as required.

**21.07 Hearing.** Upon the filing of an application, the Zoning Administrator shall set a date for public hearing, at which time and place the Zoning Board of Adjustment shall meet to consider the request for variance or appeal.

- A. Notice. No less than ten (10) days before the scheduled public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of general circulation in the area affected. The Zoning Administrator shall post notices of the public hearing at the Turner County Courthouse and on or near the property at least five days prior to the scheduled public hearing.
- B. Decision. ~~All requests under this article shall be acted upon at a meeting of the Planning Commission.~~ A favorable vote by two-thirds of the members of the Board of Adjustment shall be required to approve each request.

**21.08 Appeals from Decision of Board.** Appeals may be taken to the Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the County, aggrieved by any decision of the Board of Adjustment, in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.

**21.09 Limitations.** Any order of the Board of Adjustment granting a variance may be declared invalid by the Board of Adjustment unless substantially completed within two years from the date of such order. The Zoning Administrator shall notify the property owner of record upon invalidation of a variance.

**Article 22.00**  
**Administration and Enforcement**

**22.01 Powers and Duties.**

- A. The Zoning Administrator is hereby authorized and directed to enforce all the provisions of this ordinance and establish rules for its administration.
- B. In accordance with prescribed procedures and with the approval of the Board of County Commissioners, the Zoning Administrator may appoint technical officers and inspectors and other employees that shall be authorized to assist in the enforcement of this ordinance.

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

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

**22.03 Stop Order.** Whenever any work is being done contrary to the provisions of this ordinance, the Zoning Administrator may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Zoning Administrator to proceed with the work.

**22.04 Occupancy Violation.** Whenever any building or structure regulated by this ordinance is being used contrary to the provisions of this ordinance, the Zoning Administrator may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such persons shall discontinue the use within the time prescribed after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this ordinance.

## **Article 23.00 Building Permits**

**23.01 Building Permits Required.** It shall be unlawful for any person, firm or corporation to erect, construct, change, enlarge, alter, move, improve, convert, use, occupy or maintain any building, structure or land use regulated by this ordinance or cause the same to be done without first obtaining a separate building permit for each building, structure or land use change from the Zoning Administrator. A zoning permit is required prior to a change of use or occupancy within a building or structure.

**23.02 Application.** To obtain a building permit, the applicant shall apply at the office of the Zoning Administrator. Every applicant shall:

- A. Identify and describe the work to be covered by the permit for which application is made.
- B. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
- C. Indicate the proposed use or occupancy and work proposed.
- D. Be accompanied by a site plan.
- E. Be signed by permittee, or his authorized agent, who may be required to submit evidence to indicate such authority.
- F. Give such other data and information as may be required by the Zoning Administrator.

**23.03 Information on Site Plan.** Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, ordinances, rule, and regulations.

~~EXCEPTION~~Exception: The Zoning Administrator may waive the submission of plans, if he finds that the nature of the work or change in land use applied for is such that reviewing of plans is not necessary to obtain compliance with this ordinance.

**23.04 Issuance.** The application, plans and other data filed by an applicant for a building permit shall be reviewed by the Zoning Administrator. Such plans may be reviewed by other departments to verify compliance with any applicable laws or requirements under their jurisdiction.

If the Zoning Administrator finds that the work described in an application for a permit and the plans, and other data filed therewith, conform to the requirements of this ordinance and other pertinent laws and ordinances, and that the fees specified in Article 24.00 have been paid, he shall issue a permit.

The Zoning Administrator may issue a building permit for the construction or use of part of a building or a structure before the entire plans for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this ordinance. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building, structure, or use will be granted.

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

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

**23.07 Suspension or Revocation.** The Zoning Administrator may, in writing, suspend or revoke a building or zoning permit issued under the provisions of this ordinance whenever the permit is issued in error or on the basis of incorrect information supplied.

**23.08 Zoning Permits Required.** It shall be unlawful for any person, firm or corporation to change the use or occupancy within any building or structure regulated by this ordinance, or cause the same to be done without first obtaining a separate zoning permit for each use or occupancy change from the Zoning Administrator. If the Zoning Administrator finds that the change described in an application for a permit and the plans, and other data filed therewith, conform to the requirements of this ordinance and other pertinent laws and ordinances, the zoning permit shall be issued. A zoning permit shall be subject to the regulations of Section 23.06 Expiration and Section 23.07 Suspension or Revocation as outlined in this ordinance.

**Article 24.00**  
**Fees**

**24.01 General Regulations.** The fees set forth in this article shall be paid at the time of filing an application with the Zoning Administrator. Such fee shall be payable to the County Treasurer and under no conditions shall any fee be refunded after publication of any required legal notice or, if notice is not required, after the Planning Commission has considered the application. No action shall be taken upon any application unless all fees have been paid.

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

**Article 25.00**  
**General Provisions**

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

- A. Except as otherwise provided, no building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any structure or land be used:
  - 1. Except for a purpose permitted in the district in which the structure or land is located;
  - 2. Except in conformance with the height and minimum lot requirements, and the parking and sign regulations, and any other applicable requirements of the district in which the structure or land is located;
  - 3. Except in conformance with any Federal, State or County codes as may be applicable. Where these regulations and any other rules and regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- B. The density and yard requirements of these regulations are minimum regulations for each and every building existing at the effective date of these regulations and for any building hereafter erected or structurally altered. No land required for yards or other open spaces about an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.
- C. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on a lot except as otherwise provided in these regulations.
- D. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.

**25.02 Violation and Penalty.** Violations shall be treated in the manner specified below:

- A. The owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00, 30 days in jail, or both. Each and every day that such violation continues may constitute a separate offense.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these



regulations, the appropriate authorities of Turner County, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

**25.03 Warning and Disclaimer of Liability.** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the flood zone or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Turner County or on any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

**25.04 Interpretation, Abrogation, and Severability.** In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not the intent to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where these regulations and other regulations, easement, covenant or deed restriction conflict or overlap whichever imposes the more stringent restrictions shall prevail. All other regulations inconsistent with these regulations are hereby repealed to the extent of this inconsistency only. If any section, clause, provision or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

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

**25.06 Purpose of Catch Heads.** The catch heads appearing in connection with the sections of these regulations are inserted simply for convenience to serve the purpose of an index. The introductory statements found at the beginning of each article are to serve as general references only. The catch heads, introductory statements, and illustrative examples of zoning terms shall be wholly disregarded by any person, office, court, or other tribunal in construing the terms and provisions of these regulations.

**25.07 Effective Date.** These regulations shall be in full force and effect from and after its passage and publication as provided by law.

**Article 26.00**  
**Definitions**

**26.01 Purpose.** For the purpose of these regulations certain terms are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word 'building' shall include the word 'structure' and 'premises'; the word 'shall' is mandatory and not directory; the words 'used' or 'occupied' include the words 'intended', 'designed' or 'arranged to be used or occupied'; the word 'lot' includes the words 'plot', 'parcel' or 'tract', and the word 'person' includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. Any word not herein defined shall be as defined in any recognized standard English dictionary.

**26.02 Definitions.**

01. **ABANDONED SIGN.** A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of six months shall be considered an abandoned sign.
02. **ACCESSORY BUILDING OR USE.** A subordinate building or portion of the main building, the use of which is incidental to and customary in connection with the main building or the main use of the premises and which is located on the same lot with such main building or use. An accessory use is one which is incidental to the main use of the premises.
03. **ADULT ARCADE.** Any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.
04. **ADULT BOOKSTORE OR VIDEO STORE.** A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:
  - 1) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.
  - 2) Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.
05. **ADULT CABARET.** Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:
  - 1) Persons who appear in a state of nudity or seminudity.

- 2) Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
  - 3) Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.
06. ADULT MOTION PICTURE THEATER. A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.
  07. ADULT ORIENTED BUSINESS. Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.
  08. ADULT SERVICE. Dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.
  09. ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
  10. AGRICULTURE. The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating or storing the produce providing that the operation of any such accessory use shall be secondary to the normal agricultural activities. This definition shall not include intensive agricultural activities such as concentrated animal feeding operations and agribusiness activities.
  11. AIRPORT. A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

~~12. ANIMAL UNIT. A unit of measurement based on the amount of waste produced by the animal. For the purposes of this ordinance animal units (AU) shall be calculated according to the following chart. Animal units relate to inventory rather than annual production. Animal units are computed by multiplying the number of head of a particular animal times the corresponding animal unit equivalent. Other animal species equivalent which are not listed will be based on species' waste production.~~

ANIMAL SPECIES	ANIMAL UNIT EQUIVALENT (AU/HEAD)
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Feeder or Slaughter Cattle	1.0
Cow/Calf Pair	1.2
Mature Dairy Cattle	1.4
Heifer	0.7
Dairy Calf	0.2
Finisher Swine (over 300 lbs.)	0.4
Finisher Swine (55 to 300 lbs.)	0.3
Nursery Swine (less than 55 lbs.)	0.1
Farrow to Finish (sows)	3.7
Swine Production Unit (sows, breeding, gestating and farrowing)	0.47
Horses	2.0
Sheep and lambs	0.1
Turkeys (over 5 lbs.)	0.018
Turkeys (under 5 lbs.)	0.005
Laying Hens and Broilers (continuous overflow watering in facility)	0.01
Laying Hens and Broilers (liquid handling system in confinement facility)	0.033
Chicken over 5 lbs. (dry manure system)	0.005
Chicken under 5 lbs. (dry manure system)	0.003
Ducks	0.2

12. RESERVED.

13. ANIMAL WASTE, INCORPORATED. Animal waste applied to the land surface and mechanically mixed into the soil within twenty-four (24) hours.
14. ANIMAL WASTE, INJECTED. Animal waste injected or tilled into the soil at the time of application.
15. ANIMAL WASTE, SURFACE APPLIED. Animal waste applied to the land surface without benefit of incorporation or injection. This shall not include the use of animal waste in irrigation waters.
16. ANTENNA. Any structure or device used for the purpose of collecting or radiating electromagnetic waves including but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antenna such as whip-antenna.
17. ANTENNA SUPPORT STRUCTURE. Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples, and light poles.

18. **AQUIFER.** A zone stratum or group of strata that can store and transit water in sufficient quantities for specific use.
19. **AQUIFER, SHALLOW.** Any aquifer having the following characteristics:
  - 1) The aquifer is within fifty (50) feet or less below the land surface with fifteen (15) feet or less of continuous, overlying, extremely low permeability material, such as clayey till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this ordinance; or
  - 2) The aquifer is greater than fifty (50) feet but less than one hundred feet (100) below the land surface with thirty (30) feet or less of continuous, overlying, low to extremely low permeability geological material that may be a combination of weathered and unweathered till, shale, or till and shale.
20. **AUTOMOBILE SALES.** The use of any building, land area, or their premises for the display and sale of new or used automobiles, pickups, trucks, panel trucks or vans, all-terrain vehicles, motorcycles, snowmobiles, trailers, or recreational vehicles and including any warranty repair work and other repair service conducted as an accessory use.
21. **AUTOMOBILE SERVICE STATION.** Shall mean any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.
22. **AUTOMOBILE STORAGE YARD.** The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.
23. **BANNERS.** A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame secured or mounted so as to allow movement of the sign caused by movement of the atmosphere; i.e. pennants, twirling signs, balloons, or other gas-filled figures, ribbons, or other similar moving devices.
24. **BAR/LOUNGE.** An establishment that is licensed to sell alcoholic beverages, including beer, by the drink.
25. **BED AND BREAKFAST ESTABLISHMENT.** A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

26. **BILLBOARD.** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. Also, an off-premise sign.
27. **BOARD OF COUNTY COMMISSIONERS.** The governing body of Turner County.
28. **BOARDINGHOUSE.** A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.
29. **BROADCAST.** To convey, generate, transmit or receive electromagnetic signals regardless of frequency, power level or communications use.
30. **BROADCAST TOWER.** Shall mean a structure, not including offices or studio, for the transmission or broadcast of radio, television, radar, or microwaves.
31. **BUILDABLE AREA.** That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards.
32. **BUILDING.** Any structure, either temporary or permanent, forming an open, partially enclosed, or enclosed space constructed by a planned process of materials and components to be designated and used for the shelter or enclosure of any person, animal, or property of any kind. For the purpose of these regulations, retaining walls, concrete slabs, utility poles and fences are not considered structures.
33. **BUILDING, DETACHED.** A building surrounded by open space on the same lot.
34. **BUILDING ELIGIBILITY.** See 'eligible building site'.
35. **BUILDING, HEIGHT OF.** The vertical distance from the grade to (a) the highest point of a flat roof, (b) the deck line of a mansard roof, or (c) the average height between eaves and ridge for gable, hip, and gambrel roofs.
36. **BUILDING LINE.** Is a line on the lot running parallel to and the required horizontal distance from the nearest property line.
37. **BUILDING, PRINCIPAL.** A non-accessory building in which is conducted the principal use of the lot on which it is located.
38. **BUS/TRUCK TERMINAL.** An area and building where buses, trucks, and cargo are stored; where loading and unloading are carried on regularly; and where minor maintenance of these types of vehicles is performed.
39. **CAMOUFLAGE.** A covering or disguise of any kind to hide or conceal.

40. CAMPGROUND. A plot of ground consisting of two or more campsites where camping units can be located and occupied as temporary living quarters.
41. CATHODIC PROTECTION. A technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell; protection of a tank through the application of either galvanic anodes or impressed current.
42. RESERVED.
43. CHANGE OF USE. Substitution of one thing for another specifically regarding use of land or use of a building.
44. COMMERCIAL RECREATION FACILITY. A recreation facility operated as a business and open to the public for a fee.
45. CONCENTRATED ANIMAL FEEDING OPERATION. A lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of ninety (90) days or more during any twelve (12) month period; and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility.
46. CONTAINMENT FACILITY, PRIMARY. The tank, pit, container, pipe, enclosure, or vessel of first containment of a regulated substance.
47. CONTAINMENT FACILITY, SECONDARY. A second level of containment outside the primary containment facility designed to prevent a regulated substance from reaching land or waters outside the containment area.
48. COMPREHENSIVE PLAN. The adopted long-range plan intended to guide the growth and development of the area, including analysis, recommendations and proposals of economy, housing, transportation, community facilities, and land use.
49. CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district, but which if controlled, would promote the public health, safety and welfare.
50. CONTAMINATION, AIR. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration, mining or milling operation that increases ambient air radiation levels by 50 mrems from the background levels established prior to the commencement of such activity, measured at the perimeter of the mining or milling site or at the top of an exploration hole.
51. CONTAMINATION, WATER. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration, mining or milling operation that exceeds the maximum contaminate levels established by the Federal Safe Drinking Water Act and regulations promulgated thereunder.

52. **CONTRACTOR'S SHOP AND STORAGE YARD.** Use of land or building(s) for storage and preparation of materials and equipment used by that same individual(s) in conducting the business of construction and repair work, generally completed at some other on-site location.
53. **DAY CARE.** The providing of care and supervision of a child or 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 a part of a day.
54. **DAY CARE, CENTER.** Is normally in a facility used only for providing day care nursery or pre-kindergarten services, and is limited in number over twelve (12) by the square footage of useable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per child outdoors.
55. **DAY CARE, FAMILY.** Care is done in a family home and the number of children cared for is limited to a maximum of six (6) children under fourteen. Included in that count are the providers' own children six years and under. See (Home Occupation).
56. **DAY CARE, GROUP.** Is normally in a family home. The number of children cared for is seven (7) to twelve (12) children under the age of fourteen including the provider's own children six years and under.
57. **DENSITY.** The number of families, individuals, dwelling units, or housing structures per unit of land.
58. **DISTRICT.** An area for which regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.
59. **DWELLING.** A building, or portion thereof, constructed in conformance with the International Building Code, and used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses. This definition does not include a mobile home or manufactured home (see subsection 112).
60. **DWELLING, SINGLE FAMILY.** A building designed for or occupied exclusively by one family.
61. **DWELLING, TWO FAMILY.** A building designed for or occupied exclusively by two families.
62. **DWELLING, MULTIPLE.** A building designed for or occupied exclusively by three or more families.
63. **DWELLING UNIT.** One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family as defined herein.



64. **ELECTRICAL SUBSTATION.** A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.
65. **ELIGIBLE BUILDING SITE (BUILDING ELIGIBILITY).** A site which fulfills the requirements for the construction or placement of a residential dwelling or manufactured home. To compute the number of eligible building sites on a lot of record of forty acres or more, the total acreage of the parcel shall be divided by forty acres. The resulting whole number is the number of building sites eligible on the lot of record.
66. **EXPLORATION.** The act of searching for or investigating a mineral deposit. It includes, but is not limited to, sinking shafts, tunneling, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development of extraction operations, and the building of roads, access ways, and other facilities related to such work. Any and all shafts, tunnels, or holes shall not exceed 18 inches in diameter unless the conditional use for exploration provides for a larger diameter. The term does not include those activities which cause no or very little surface disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand-carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work, or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not involved in exploration.
67. **FAMILY.** One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law, in addition to persons actually related by blood or law the following persons shall be considered related by blood or law for the purposes of this ordinance: (1) A person residing with the family for the purpose of adoption; (2) Not more than six (6) persons under eighteen (18) years of age, residing in a foster home licensed or approved by a governmental agency; (3) Not more than four (4) persons nineteen (19) years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency; and (4) any person who is living with the family at the direction of a court.
68. **FARMSTEAD.** An area which existed on July 8, 1998 and encompasses a farm dwelling or dwellings and other agricultural buildings and structures devoted to and used in connection with a farming operation. A farmstead is generally bounded on one or more sides by a tree belt, is located on one or more quarter-quarter section parcels or equivalent area, and does not include crop land, hay land or pasture.
69. **FLOOD INSURANCE RATE MAP (F.I.R.M.).** An official map of Turner County on which the Federal Insurance Administration has delineated the areas of flood hazard and their potential for flooding.

70. **FLOOD PLAIN.** A land area adjoining a river, creek, watercourse or lake which is likely to be flooded and which is designated as Zone A, A0 or A1- A30 on the F.I.R.M.
71. **FLOOD PROOFING.** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water, and sanitary facilities, structures, and contents of buildings in a flood hazard area.
72. **FLOOR AREA.** The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.
73. **FREESTANDING SIGN (Ground Sign).** A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.
74. **FRONTAGE.** All the property on one side of a street or highway, between two intersecting streets (crossing or terminating) or for a distance of 400 feet on either side of a proposed building or structure, measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street, but not including property more than 400 feet distant on either side of a proposed building or structure.
75. **GARAGE, PRIVATE.** A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.
76. **GARAGE, PUBLIC.** A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.
77. **GARAGE, STORAGE.** Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.
78. **GREENHOUSE.** A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.
79. **GROUND SIGN.** See (Freestanding Sign).
80. **GROUND WATER.** Subsurface water that fills available openings in rock or soil materials such that it may be considered water saturated.
81. **GROUP HOME.** A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

82. HOME OCCUPATION, MINOR. A business, profession, occupation, or trade conducted for gain or support and located entirely within a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling.
83. HOME OCCUPATION, MAJOR. A business, profession, occupation, or trade conducted for gain or support and located entirely within a dwelling, or accessory building thereto, which use is accessory, incidental, and secondary to the use of the property for residential or agricultural purposes and does not change the essential residential or agricultural character or appearance of such property.
84. HYDROLOGIC BALANCE. The relationship between the quality and quantity of inflow to and outflow from the storage in hydrologic units, such as a drainage base and aquifer, soil zone lake, or reservoir it encompasses, the quantity and quality relationships between precipitation, runoff, evaporation and the change in ground and surface water storage.
85. HYDROLOGIC REGIME. The entire state of water movement in a given area which is a function of the climate and includes the entire water cycle for the drainage area.
86. JOINT ZONING JURISDICTION. The area outside a municipality where the Board of County Commissioners has granted to the municipality joint zoning powers with the County.
87. KENNEL. Any premise or portion thereon where dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.
88. LIVESTOCK PRODUCTION SURPLUS WATER. That waste water resulting from an animal feeding operation which does not contain more than 2 percent solids nor more than 1 pound of nitrogen as N per 1000 gallons of water. Such water may include, but not be limited to, rain or snowmelt water from open feeding lots, wash water from a dairy operation, or flush water from a confined feeding operation.
89. LOADING SPACE. A space within the main building or on the same lot for the standing, loading, or unloading of trucks.
90. LOT. A parcel or tract of land having specific boundaries and which has been recorded in the Register of Deeds office. A lot used for residential purposes shall include only one main building together with its accessory buildings, open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.
91. LOT AREA. The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines. Public right-of-way shall not be considered part of the lot area.

92. LOT, CORNER. A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.
93. LOT, DEPTH. The mean horizontal distance between the front and rear lot lines.
94. LOT, DOUBLE FRONTAGE. A lot having a frontage on two nonintersecting roads, as distinguished from a corner lot.
95. LOT, FRONTAGE. The length of the front lot line measured at the street right-of-way line.
96. LOT, INTERIOR. A lot other than a corner lot.
97. LOT LINE. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.
98. LOT LINE, FRONT. The lot line separating a lot from a street right-of-way.
99. LOT LINE, REAR. The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three feet to any residential lot line.
100. LOT LINE, SIDE. Any lot line other than a front or rear lot line.
- ~~101. RESERVED.~~
101. LOT OF RECORD. Part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds, or a parcel of land the deed or agreement to convey to which was recorded in the office of said Register of Deeds prior to July 8, 1998.
102. LOT, WIDTH. The width of a lot at the front yard line.
103. MAIN BUILDING. See 'Principal Building'.
104. MAJOR STREET. Streets or roads which have been designated as freeways or arterial routes on the major street plan.
105. MANUFACTURING:
- 1) LIGHT MANUFACTURING. Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building.

- 2) GENERAL MANUFACTURING. Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.
106. MAP, OFFICIAL ZONING. The map or maps, which are legally adopted as a part of the zoning regulations that delineate the boundaries of the zoning districts.
  107. MASSAGE ESTABLISHMENT. An establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision does not apply to:
    - 1) Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.
    - 2) Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.
    - 3) Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.
    - 4) Physical therapists licensed pursuant to SDCL Ch. 36-10.
    - 5) Athletic trainers licensed pursuant to SDCL Ch. 36-29.
    - 6) Massage therapists licensed pursuant to SDCL Ch. 36-35.
    - 7) Chiropractors licensed pursuant to SDCL Ch. 36-5.
  108. MILLING. The processing or enhancing of a mineral.
  109. MINE DEWATERING DISCHARGE. Water that has been discharged from active or abandoned mines in areas affected by mineral exploration, mining and milling.
  110. MINERAL. An inanimate constituent of the earth in a solid, liquid or gaseous state which, when extracted from the earth, is useable in its natural form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel and quarry rock.

111. MINERAL EXTRACTION. The removal of a mineral from its natural occurrence on affected land. The term includes, but is not limited to, underground and surface mining.
112. MOBILE HOME/MANUFACTURED HOME. Any single-family permanent living quarters, more than eight (8) feet wide and thirty-two (32) feet in length, and designed and built to be towed on its own chassis.
113. MOBILE HOME PARK. A parcel or tract of land designed and maintained for the purpose of providing a location for mobile homes and manufactured homes as living quarters and where private roads provide access to individual lots. This definition shall specifically exclude sales lots for mobile homes, manufactured homes, travel trailers and similar operations.
114. MOTOR VEHICLE REPAIR SHOP. Any building or structure in which a business, service or industry involving the maintenance, servicing or repair of vehicles is conducted or rendered. This includes rebuilding of engines, spray paint operations and hourly repair.
115. MREM. One thousandth of a REM.
116. NEIGHBORHOOD UTILITY FACILITY. Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings that exceed 120 square feet of roof area) necessary for conducting a service by a government or a public utility. This definition does not include an electrical substation.
117. NONCONFORMING BUILDING OR STRUCTURE. Any building or structure which does not comply with all of the regulations of this ordinance or any amendment hereto governing the bulk of the operations for the zoning district in which such building or structure is located; or is designed or intended for a nonconforming use.
118. NONCONFORMING USE. A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this ordinance, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.
119. NON-PROFIT RELIGIOUS and APOSTOLIC ASSOCIATIONS - Religious and apostolic organizations as described in the United States Tax Code. "The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received."

120. **NONSTANDARD USE.** The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.
121. **NUDE MODEL STUDIO.** A place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other considerations. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:
- 1) A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.
  - 2) A Student must enroll at least three days in advance of a class in order to participate.
  - 3) No more than one nude or seminude model is on the premises at any time.
122. **NUDE, NUDITY OR STATE OF NUDITY.** Any of the following:
- 1) The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.
  - 2) A state of dress that fails to opaquely cover a human anus, genitals, or a female breast below a point immediately above the top of the areola.
123. ~~RESERVED.~~
124. **OUTDOOR STORAGE.** The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of a salvage or junkyard as defined herein.
125. **PARKING SPACE.** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street and permitting ingress and egress of an automobile.
126. **PERMISSIVE USES.** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

127. **PERSONAL SERVICES.** Establishments primarily engaged in providing services involving the care of a person or their apparel. Including but not limited to: laundry or dry cleaning, garment services, coin operated laundry, photographic and art studios, beauty shop, barber shop, shoe repair, reducing salon and health club, and clothing rental.
128. **PLACE OF WORSHIP.** A structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features.
129. **PLANNING COMMISSION.** The duly appointed planning board of the County responsible for reviewing and approving applications for development and preparation of plans and ordinances.
130. **RESERVED.**
131. **PORTABLE SIGN.** Any sign not permanently attached to the ground or building.
132. **PREMISES.** A lot, parcel, tract or plot of land together with all buildings and structures thereon.
133. **PRINCIPAL BUILDING.** A building in which is conducted the primary or predominant use of the lot on which it is located.
134. **PRINCIPAL USE.** The primary or predominant use of any lot.
135. **PUBLIC UTILITY FACILITIES.** See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood Utility Facilities except that buildings that exceed 120 square feet in roof area are allowable.
136. **QUARTER-QUARTER SECTION.** A quarter of a quarter section as determined by the United States Rectangular Land Survey land survey system shall be considered a quarter-quarter section for purposes of these regulations. For purposes of these regulations, rights-of-way for public or private transportation shall not impact the completeness of a quarter-quarter section.
137. **RECHARGE CAPACITY.** The ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.
138. **REGULATED SUBSTANCE.** A regulated substance shall include: pesticides and fertilizers, hazardous and toxic substances designated by the EPA thru any of the following; Clean Water Act, Toxic Substances Control Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response Compensation and Liability Act; petroleum and petroleum substances, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, additives used in refining oils and gasoline. This term does not include sewage and sewage sludge.



139. REM (ROENTGEN EQUIVALENT MAN). A measurement of the biological effects resulting from ionizing radiant energy where roentgen is the amount of radiation leading to the absorption of 88 ergs of energy per gram of air.
140. RESIDENCE. A permanent dwelling place.
141. RETAIL SALES AND TRADE. Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.
142. SALVAGE OR JUNK YARD. An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires, bottles, and motor vehicles. This definition includes an automobile wrecking or dismantling yard, but does not include uses established entirely within enclosed buildings.
143. SANITARY LANDFILL. A site for the disposal of garbage and other refuse material.
144. SEMINUDE. A state of dress in which clothing covers no more than the genitals, pubic region, and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.
145. SETBACK/SETBACK LINE. That line that is the required minimum distance from any lot line that establishes the area within which the principal structure must be erected or placed.
146. SIGN. Any object, device, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.
147. SIGN AREA. The area of the largest single face of the sign within the perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.
148. SIGN (OFF-PREMISE). A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

149. **SIGN (ON-PREMISE).** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.
150. **SOLID WASTE RECEIVING STATION.** A facility where garbage and other refuse material is collected at a central location, compacted and then transported for disposal at a landfill site.
151. **SPECIFIED ANATOMICAL AREAS.** Any of the following:
- 1) A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.
  - 2) Male genitals in a discernibly turgid state even if completely and opaquely covered.
152. **SPECIFIC SEXUAL ACTIVITIES.** Any of the following:
- 1) Human genitals in a state of sexual stimulation or arousal.
  - 2) Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.
  - 3) Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.
  - 4) Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.
153. **STABLE.** Any premise or part thereon where horses or any equine animal are maintained, boarded, bred or cared for in return for remuneration, or are kept for the purpose of sale.
154. **STATIONARY TANK.** An above ground tank which is fixed permanently in place on a foundation, rack, cradle, stilts or on the ground. The term does not include tanks mounted on wheels, trolleys, skids, pallets or rollers.
155. **STORY.** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
156. **STREET.** A public right-of-way which affords the principal means of access to abutting property. Also referred to a road or highway.
157. **STREET LINE.** The line between the public right-of-way and private property.

158. **STRUCTURE.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. For the purpose of these regulations, retaining walls, concrete slabs and utility poles are not considered structures.
159. **SUBDIVISION.** The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.
160. **SURFACE IMPOUNDMENT.** A facility, or part of a facility which is a natural topographic depression, man-made excavation, or dike area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.
161. **TOWER FACILITY(IES).** Structures thirty-five feet (35') or more in height and that may include a tower, antenna(s), equipment building(s), anchor points and other related equipment used by broadcast services and/or wireless telecommunications services.
162. **TOWER, HEIGHT.** The height of the tower is the vertical distance from the point of contact with the ground to the highest point of the tower including all antenna or other attachments.
163. **TOWER, MONOPOLE.** A tower consisting of a single pole, constructed without any guy wires and ground anchors.
164. **TRAILER.** Means any of the following:
- 1) **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses.
  - 2) **PICKUP COACH.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
  - 3) **MOTOR HOME.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
  - 4) **CAMPING TRAILER.** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.
165. **TRUCK STOP.** Any building, premises, or land in which or upon which a business, service or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for

trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities.

166. UNSAFE SIGN. A sign on which the display area or structure has deteriorated due to rust, rotting, or physical damage to the point where any portion of the sign has the potential to fall shall be considered unsafe.
167. UNSIGHTLY SIGN. A sign which has deteriorated to the point where at least one-fourth of the display area is no longer clearly recognizable at a distance of twenty feet; or where the paint is peeling, chipping or flaking from the structure shall be considered an unsightly sign.
168. WAREHOUSE. A building used primarily for the storage of goods and materials.
169. WASTE. Any garbage, refuse, manure, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954, as amended to January 1.
170. WATER TABLE. The upper surface of a zone of saturation where the body of ground water is not confined by an overlying impermeable zone.
171. AQUIFER PROTECTION AREA. A geographical area overlying a geologic formation, group of formations or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use. Any deposition of sand and gravel that is connected to water bearing strata or is not isolated.
172. WHOLESALE MERCHANDISING/TRADE. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.
173. WIND ENERGY CONVERSION SYSTEM (WECS). Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.
174. WIRELESS TELECOMMUNICATION EQUIPMENT. Any ground or roof mounted structure of more than 35 feet in height above average ground level built for the purposes of supporting, elevating or attaching antenna(s) for broadcasting of cellular, personal communications, specialized mobilized radio, enhanced specialized mobilized radio,

paging, and similar services. For all sections of this ordinance, wireless telecommunication shall not be considered a public utility.

- 175. ~~RESERVED~~ YARD. Reserved.
- 176. YARD, FRONT. A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.
- 177. YARD LINE. See (Building Line).
- 178. YARD, REAR. A yard extending the full width of the lot between a principal building and the rear lot line.
- 179. YARD, REQUIRED FRONT. The required front yard shall extend across the front of a lot between the property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.
- 180. YARD, REQUIRED REAR. The required rear yard shall extend across the rear of a lot between the property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.
- 181. YARD, REQUIRED. A required yard shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this ordinance.
- 182. YARD, REQUIRED SIDE. The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.
- 183. YARD, SIDE. A yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.
- 184. ZONING ADMINISTRATOR. The individual appointed by the Board of County Commissioners and designated to administer and enforce the zoning ordinance.
- 185. ZONING DISTRICT. A specifically delineated area within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.
- 186. ZONING PERMIT. A document signed by the Zoning Administrator or an authorized representative as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use or building complies with the provisions of the zoning regulations or an authorized variance therefrom.