# TITLE 2 CITY OF SUMMERSET ZONING ORDINANCES

These regulations shall be known and may be cited as “The Zoning Ordinance of the City of Summerset, South Dakota”.

## CHAPTER 2.02 SHORT TITLE AND PURPOSE

### 2.02.010 Short title.

These regulations shall be known and may be cited as "The City of Summerset Zoning Ordinance."

### 2.02.020 Purpose.

It is the purpose of this zoning ordinance to promote the safety, health, convenience, aesthetics and general welfare in the City of Summerset, South Dakota.

### 2.02.030 Jurisdiction.

These regulations shall apply to all lands within the corporate boundary of the City of Summerset; as from time to time may be amended.

## CHAPTER 2.03 GENERAL PROVISIONS

### 2.03.020 Intent

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

### 2.03.030 General regulations.

The following general regulations shall apply to all zoning districts:

A. Except as otherwise provided in this title, 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, loading, stacking 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 municipal codes as may be applicable. Where this ordinance and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

B. The density and yard regulations of this ordinance are minimum regulations for each and every building existing at the effective date of this ordinance or 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 this ordinance.

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.

### 2.03.040 Purpose of catch heads; introductory statements and illustrations.

The catch heads appearing in connection with the sections of this title are inserted simply for convenience to serve the purpose of an index. The introductory statements found at the beginning of each chapter 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 this title.

### 2.03.050 Fractions.

Where fractional numbers occur in this title, they shall he rounded off to the nearest whole number.

**2.03.060 Savings clause.**

This title shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any ordinance or part of any ordinance hereby repealed; this title 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 ordinance or part of any ordinance hereby repealed.

## CHAPTER 2.04 DEFINITIONS

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

B. The following words, terms and phrases are defined and shall be interpreted as such throughout this title. Terms not herein defined shall have the meaning customarily assigned to them.

**2.04.020 Abut.**
"Abut" means to share any portion of a lot line, including a single point.

**2.04.025 Accessory building.**
"Accessory building" means a subordinate building, the use of which is incidental to that of a principal building or buildings located on the same lot therewith. Radio and television antennae towers, and permanent satellite dish antennas and the appurtenant mounting apparatus, excluding guy anchor points, shall be considered an accessory building for the purpose of determining setback requirements established in each zoning district.

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

**2.04.035 Adjacent.**
"Adjacent" means parcels with no private lots between them (can be shared by public R.O.W. (Right of Way)).

**2.04.040 Adjoin.**
"Adjoin" means to share any portion of a lot line, including a single point.

**2.04.045 Advertising.**
"Advertising" includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used or intended for advertising, whether placed on the ground, rocks, trees,

tree stumps, or other natural structures, or on a building, structure, milestone, signboard, billboard, wallboard, roof board, frame, support, fence, or other manmade structure, and any such advertising is a structure within the meaning of the word "structure" as used in this title.

**2.04.050 Advertising sign or structure.**
See Sign.

**2.04.055 Agriculture.**
"Agriculture" means the production, keeping, or maintenance for sale, lease or personal use, of plants and animals useful to man, including, but not limited to: forages; sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations of hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to soil conservation or forestry management programs. This definition shall not include intensive agricultural activities such as feed lot operations, chicken farms and agribusiness activities.

**2.04.060 Alley.**
"Alley" means a minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

**2.04.065 Alterations.**
"Alterations," as applied to a building or structure, means a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**2.04.070 Amusement and recreation establishments.**
"Amusement and recreation establishments" means businesses whose primary function is entertainment, such as theaters, billiard halls, etc.

**2.04.075 Apartment house.**
See Dwelling, multiple.

**2.04.080 Area, building.**
The square footage of the footprint of the principal building and all accessory buildings exclusive of non enclosed porches, terraces, steps and decks.

**2.04.090 Art centers.**
Art center includes galleries, accessory museum space, classroom and studio space, the manufacturing of sculptures and other artwork as an accessory use to the gallery space, accessory gift shop and other accessory uses.

**2.04.095 Assisted living facility/group care home.**
A residential facility licensed by the state that is established for the purpose of providing, on a long term basis and for monetary compensation, room and board for three or more individuals living as a single household unit, who are unrelated by blood or marriage, and who by reason of age, physical, or mental disability may require personal assistance in achieving personal independence. Such a facility may contain a separate and defined living unit for a resident caretaker or manager. In addition to the above, Group Care Homes shall include all such facilities licensed by state or federal authority which provide room, board and other care for three or more persons. Provided, however, that missions, detoxification centers, detention and residential inpatient treatment facilities shall not be construed to fall under the definition of Group Care Homes, whether licensed or not.

**2.04.100 Automobile wrecking.**
"Automobile wrecking" means the dismantling, storage, sale, or dumping of used motor vehicles, trailers, or parts thereof.

**2.04.105 Average ground elevation.**
"Average ground elevation" means the elevation of the mean finished ground surface at the front wall of a structure.

**2.04.110 Basement.**
A story having at least one-half of its height below the average level of the adjoining ground. A basement shall be counted as one-half story. (See Story).

**2.04.115 Bed and breakfast.**
A residence offering overnight lodging and a morning meal, with not more than four guest sleeping rooms for not more than eight persons. A bed and breakfast in a residential zone shall be regulated as a home occupation.

**2.04.120 Billboard.**
See Sign.

**2.04.125 Board.**
"Board" means the Board of Zoning Adjustment for the city of Summerset, South Dakota.

**2.04.130 Boarding house.**
A dwelling as distinct from a hotel or rooming house where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more but not exceeding (12) persons on a weekly or monthly basis.

**2.04.135 Buildable area of a lot.**
"Buildable area of a lot" means that portion of a lot bounded by the required rear and side yards and the building setback line.

**2.04.140 Building.**
"Building" means any enclosed structure intended for shelter, housing or enclosure of persons, animals or chattels.

**2.04.145 Building, accessory.**
See Accessory building.

**2.04.150 Building, main or principal.**
"Main or principal building" means a building or buildings in which is conducted the principal use or uses of the lot. In any commercial or industrial district more than one principal building for an industrial or commercial use may be permitted on a single lot provided setback, yard and lot coverage requirements are met. In any residential district any single-family, two-family or multiple dwelling shall be deemed to be the sole principal building on the lot on which it is situated.

**2.04.155 Building official.**
The official responsible for the administration and enforcement of the various codes regulating construction, use or occupancy of buildings and structures, public or private.

**2.04.160 Building setback line.**
"Building setback line" means a line delineating the minimum allowable distance between the street right-of-way and the front of a structure, within which no building or other structure shall be placed except as provided in Sections 2.08.040, 2.10.040, 2.12.040, 2.14.040, 2.16.040, 2.18.040, 2.20.040, 2.22.040, 2.24.040, 2.26.040 and 2.28.050. The building setback line is parallel to or concentric with the street right-of-way.

**2.04.165 Building site.**
"Building site" means a single parcel of land occupied or intended to be occupied by a building or structure.

**2.04.170 Business services.**
"Business services" means any activities which render service primarily to other commercial and industrial enterprises, or which service and repair appliances and machines used in a home or business.

**2.04.175 Cellar.**
"Cellar" means that portion of a building between the floor and ceiling which is wholly or partly below grade (adjoining ground elevation) and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling (see Story).

**2.04.180 Clinic.**
See Medical facility.

**2.04.185 Club, private.**
"Private club" means an organization catering exclusively to members and their guests, or premises and buildings for recreational, fraternal or athletic purposes which are not conducted

primarily for gain, providing that any vending stands, merchandising or commercial activities are conducted only as required generally for the membership of such club, organized formerly by either incorporation or association of a national or state organization.

**2.04.190 CNG**
"CNG" means compressed natural gas.

**2.04.195 Conditional Use Permit**
"Conditional Use Permit" The permitting of a use of land and/or structures not otherwise permitted by right in the zoning district. Said permit shall be issued by the city stating that the conditional use complies with the conditions and standards set forth in this title and authorized by the city.

**2.04.200 Community corrections facility.**
"Community corrections facility" means a twenty-four hour per day minimum security detention facility for county, state or federal inmates on release from a more restrictive detention facility or offenders initially placed by a court in lieu of a more restrictive detention facility where supervision as well as employment, education and rehabilitation assistance are provided. The facility may be either a single structure or a grouping of structures on a single site.

**2.04.205 Condominium.**
Real property consisting of an undivided interest in portions of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property. A condominium may include, in addition, a separate interest in other portions of real property.

**2.04.210 Contiguous.**
"Contiguous" means to share any portion of a lot line, including a single point.

**2.04.215 Convention hotel.**
"Convention hotel" means any facility which provides a variety of services designed predominately to serve the needs of the convention business. The facility shall be permitted to have one hundred square feet of floor space for associated related uses for every one hundred square feet of room space. A convention hotel shall have a minimum of one hundred fifty rooms and shall provide such facilities as restaurants, lounges, meeting rooms, and similar related retail uses. A minimum of twenty percent of the rooms shall be business suites.

**2.04.220 Country club.**
"Country club" means a chartered, membership club, with or without dining facilities and cocktail lounge, catering primarily to its membership, providing one or more of the following recreational and social amenities: golfing, riding, outdoor recreation, clubhouse, locker room, pro shop.

**2.04.225 Coverage.**
"Coverage" means the lot area covered by all buildings located therein, including the area covered by all overhanging roofs.

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

**2.04.235 Day care, center.**
A facility used for providing adult or child day care not located in a home, and is limited in number by the square footage of useable space available. The ratio is 35 square feet per person indoors and 50 square feet per person outdoors.

**2.04.240 Day care, home.**
Care is provided in a dwelling and the number of persons cared for is limited to a maximum of six adults or six children under the age of 14 years. Included in the number of children are the provider's own children six years and under. The dwelling shall be used as the principal use, and the day care use shall be accessory.

**2.04.245 Day care, family.**
Care is provided in a dwelling. The number of persons cared for is seven to 12 adults or children under the age of 14 years including the provider's own children six years and under. The dwelling shall be used as the principal use, and the day care use shall be accessory.

**2.04.250 Developmental lot.**
"Developmental lot" means a plot plan of one or more lots when signed by the Planning and Zoning Commission or its designee. A developmental lot can only be so designated where the lots are under one ownership, as per ownership of record files. Only one residential building and its accessory buildings shall be placed on any developmental lot. In any commercial or industrial district more than one principal building for an industrial or commercial use may be permitted on a developmental lot provided setback, yard and lot coverage requirements are met.

**2.04.255 District.**
"District" means any section or sections of the city of Summerset for which the regulations governing use of the land and use, density, bulk, height and coverage of buildings and other structures are uniform.

**2.04.260 Dormitory.**
"Dormitory" means a building containing sleeping rooms for either transient or permanent occupancy.

**2.04.265 Drive-in commercial uses.**
"Drive-in commercial uses" means any retail commercial use providing off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters, and similar uses.

**2.04.270 Drive-in restaurants.**
"Drive-in restaurants" means any establishment in which patrons, while remaining in their cars, are served food, beverages, or refreshments for consumption on or off the premises.

**2.04.275 Dump.**
"Dump" means a lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discharged machinery, vehicles, or parts thereof, or waste material of any kind.

**2.04.280 Dwelling.**
"Dwelling" means a building or portion thereof, exclusive of manufactured homes as herein defined, used for residential purposes. (See dwelling Unit)

**2.04.285 Dwelling, multiple.**
"Multiple dwelling" means a detached building designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or resort-type hotels.

**2.04.290 Dwelling, single-family.**
"Single-family dwelling" means a detached building designed to be occupied exclusively by one family.

**2.04.295 Dwelling, townhouse.**
"Townhouse dwelling" means one of a group of two or more attached single-family dwelling units built on one or more common lot lines. There shall be no overlapping of townhouse structures with the exception of roof overhangs. Each townhouse shall be located on an individually platted lot which may contain open space in addition to the area upon which the dwelling is constructed. The owner of the townhouse may also participate in the ownership of common property within a townhouse development.

**2.04.300 Dwelling, two-family.**
"Two-family dwelling" means a detached building designed to be occupied by two families living independently of each other, exclusive of auto or trailer courts or camps, hotels or resort-type hotels.

**2.04.305 Dwelling unit.**
“Dwelling unit” means one or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**2.04.310 Equal degree of encroachment.**
"Equal degree of encroachment" means a standard applied in determining the location of encroachment limits so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the floodplain along both sides of a stream for a significant reach.

**2.04.315 Family.**
"Family" means one or more persons related by blood, marriage or adoption, or a group not to exceed five persons (excluding servants) none of whom are related by blood or marriage,

occupying the premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family shall be deemed to include domestic servants employed by the family.

**2.04.320 Farmer's market.**
"Farmer's market" means the offering for sale of fresh agricultural products directly to the consumer at an open air market designated by the council as a community activity.

**2.04.325 Fast-food restaurants.**
"Fast-food restaurants" means any restaurant in which food is served to patrons in disposable containers. Disposable containers shall be defined as but not limited to those containers made of paper, plastic, or styrofoam, and which are intended to be discarded after use.

**2.04.330 Flood.**
"Flood" means a temporary rise in stream level that results in inundation of area not ordinarily covered by water.

**2.04.335 Flood frequency.**
"Flood frequency" means the average frequency, statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded.

**2.04.340 Floodway.**
The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

**2.04.345 Floor area.**
"Floor area" means the sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure.

**2.04.350 Food processing.**
"Food processing" means the preparation of food products for retail sale on the premises.

**2.04.355 Fraternity or sorority house.**
"Fraternity or sorority house" means a building housing the members of a fraternity or sorority group living together under a cooperative arrangement as distinct from a boarding or lodging house or private club.

**2.04.360 Frontage.**
"Frontage" means all the property on one side of a street between two intersecting streets (crossing or terminating) 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.

**2.04.365 Garage, attached.**
There must be no less than six feet of common wall between the house and garage, or a common roof carried over both the primary structure and the auxiliary building.

**2.04.370 Garage, private.**
“Private garage” means an accessory building or part of a main building used primarily for storage and which shall not be used for commercial purposes. The maximum cumulative allowable size of all garages or carports shall be one thousand five hundred square feet or thirty percent of the size of the gross floor area of the dwelling unit(s), whichever is greater. In no event shall the size of the building footprint of the garage(s) or carport(s) exceed the footprint of the dwelling unit(s). The garage(s) or carport(s) shall be used only by persons residing on the premises.

**2.04.375 Garage, public.**
"Public garage" means any garage other than a private garage, available to the public, which is used for the storage, repair, rental, greasing, washing, sales, servicing, adjusting, or equipping of automobiles or other motor vehicles.

**2.04.380 Garage, repair.**
"Repair garage" means a building in which are provided facilities for the care, servicing, repair, or equipping of motor vehicles.

**2.04.385 Garden centers.**
A "garden center" means a retail and/or wholesale establishment consisting of one or more of the following uses: greenhouses, tree or plant nurseries, and landscaping sales and service.

**2.04.390 Gasoline service or filling station.**
"Gasoline service or filling station" means any area of land, including structures thereon, that is used for the retail sale of gasoline, butane or propane, or oil fuels, or other automobile accessories and for servicing motor vehicles, but not including painting.

**2.04.395 Grade, adjacent ground elevation.**
"Adjoining ground elevation grade" means the lowest part of elevation of the finished surface of the ground surface, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

**2.04.400 Grade, established.**
"Established grade" means the elevation of the centerline of the streets as officially established by the city authorities.

**2.04.405 Grade, finished.**
"Finished grade" means the completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

**2.04.410 Group home.**
"Group home" means an activity providing personal assistance to six or more individuals unrelated by blood or marriage who, by reason of mental or physical disability, addiction to drugs or alcohol, or family and school adjustment problems, require specialized attention and care in order to achieve personal independence. Such assistance must include board and room, and may include counseling, rehabilitative services and other incidental services customarily provided by group homes. This shall not include missions, detoxification centers or detention centers.

**2.04.415 Health department.**
"Health department" means the Meade County Health Department or State Health Department.

**2.04.420 Height.**
As related to Zoning District height regulations, the vertical distance measured from the average ground elevation of the proposed finished grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**2.04.425 Historical monuments and/or structures.**
"Historical monuments and/or structures" means any antique structure or building existing contemporaneously with and commonly associated with an outstanding event or period of history, and any structure or building in which the relics and/or mementos of such event or period are housed and preserved and that have been officially designated by the City, State or Federal Government.

**2.04.430 Home occupation.**
"Home occupation" means any activity conducted for financial gain by the occupants of any dwelling unit which is located within a residential zoned district.

**2.04.435 Hospital.**
See Medical facilities.

**2.04.440 Hotel, motel, motor court, motor lodge, or tourist court.**
Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of transient guest.

**2.04.445 House trailer.**
See Manufactured home.

**2.04.450 House trailer park.**
See Manufactured home park.

**2.04.455 High-tech industrial production facility.**
“High-tech industrial production facility” means a facility predominantly utilizing computerized or robotic production techniques with limited labor requirements, including, but not limited to, computerized printing processes, robotic parts manufacturing, etc.

**2.04.460 International Building Codes.**
“International Building Codes” means the International Building Codes, as officially adopted by the city of Summerset.

**2.04.465 Junkyard or salvage yard.**
"Junkyard" or "salvage yard" means a lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or
discarded material; or for the collecting, dismantling, storing and salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof.

**2.04.470 Kennel.**
"Kennel" means any lot or premises or portion thereof where four or more dogs, cats, rabbits or other household/domesticated animals, six months of age or older, are maintained, boarded, bred, or cared for, in return for any compensation, or are kept for the purpose of sale. A retail store meeting the definition of pet store as contained in Section 2.04.630 is not a kennel for purposes of zoning.

**2.04.475 Kindergartens.**
See Day nurseries, private.

**2.04.480 Legal nonconforming use.**
"Legal nonconforming use" means a building, structure or use of land existing at the time of enactment of this title not legally conforming to the regulations of the district in which it is situated.

**2.04.485 Loading space.**
"Loading space" means a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of a truck.

**2.04.490 Lot.**
A platted parcel of land which is or may be occupied by a building and its accessory buildings.

**2.04.495 Lot, area.**
"Lot area" means the total horizontal area included within lot lines.

**2.04.500 Lot, corner.**
A lot on which at least two adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than (135) degrees. A corner lot shall be deemed to have two front lot lines and two side lot lines.

**2.04.505 Lot, depth.**
"Lot depth" means the average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

**2.04.510 Lot, double-frontage.**
"Double-frontage lot" means a lot which runs through a block from street to street and which has two nonintersecting sides abutting on two or more streets.

**2.04.515 Lot, frontage.**
"Lot frontage" means that dimension of a lot or portion of a lot abutting on a street.

**2.04.520 Lot, interior.**
"Interior lot" means a lot other than a corner lot.

**2.04.525 Lot line, front.**
"Front lot line" means, in the case of an interior lot, the line separating the lot from the street. In the case of a corner or double-frontage lot, the line separating the lot from that street which is designated as the front street in the request for building permit.

**2.04.530 Lot line, rear.**
"Rear lot line" means the lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than ten feet long and wholly within the lot.

**2.04.535 Lot lines.**
"Lot lines" means the lines bounding a lot as defined herein.

**2.04.540 Lot line, side.**
"Side lot line" means any lot boundary line not a front lot line or a rear lot line.

**2.04.545 Lot width.**
"Lot width" means the width of a lot at the building setback line measured at right angles to its depth.

**2.04.550 Manufactured home:**
A portable dwelling unit, designed and constructed to be towed on its own chassis, comprised of frame and wheels, and designed to be connected to utilities for year-round occupancy. The term shall include:
(1) Units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity: and,
(2) Units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing. The term shall include units designed to be used for residential, commercial, educational or industrial purposes excluding, however, recreational vehicles and travel trailers.

**2.04.555 Manufactured home park:**
Any area, tract or site or plot of land not less than ten acres whereupon manufactured homes as herein defined are placed, located or maintained, or intended to be placed, located or maintained, and shall include all accessory buildings used or intended to be used as part of the equipment thereof.

**2.04.560 Manufactured home space:**
A defined plot of ground or lot within a manufactured home park which is designed for and designated as the location for two (2) automobiles and one (1) manufactured home, and not used for any other purposes whatsoever other than customary accessory uses.

**2.04.565 Medical facilities.**
“Medical facilities" means:

A. "Convalescent, rest or nursing home" means a health facility where persons are housed and furnished with meals and continuing nursing care for compensation;

B. "Dental clinic or medical clinic" means a facility for the examination and treatment of ill and afflicted human outpatients, provided, however, that patients are not kept overnight except under emergency conditions;

C. "Dental office or doctors offices" means the same thing as dental or medical clinic;

D. "Funeral home" means an establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of bodies, and for funerals;

E. "Hospital" means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities;

F. "Public health center" means a facility primarily utilized by a health unit for the provision of public health services including related facilities such as laboratories, clinics, and administrative offices operated in connection therewith;

G. "Sanatoriums" means an institution providing health facilities for inpatient medical treatment or treatment and recuperation using natural therapeutic agents.

**2.04.570 Micro cell cellular communications facilities.**
“Micro cell” means cellular communications facilities providing communications coverage to a geographically limited and specifically defined area (e.g. a topographically constrained area due to natural or urban built environment). Such facilities are integrated with standard cellular technology (i.e. a macro cell) to provide wireless communication services to the public. The installation of such facilities shall be allowed on the top of existing buildings as a permitted use in certain zoning districts if all of the following criteria are met (otherwise a use on review permit shall be required):

A. No new antenna tower is erected (and the micro cell facility is located on buildings in compliance with this subsection).

B. No antenna shall be located within thirty inches of any space occupied by or available to the public.

C. No antenna shall exceed six square feet in area.

D. The equipment shelter associated with a micro cell site may not exceed one hundred square feet in floor area.

E. The antenna may be mounted on a roof only if the height of the antenna at the highest point does not exceed the horizontal distance from the antenna to the nearest edge of the rooftop.

F. Facade mounted antenna may not exceed five feet above the facade to which it is attached with a maximum projection of eighteen inches.

G. Facade mounted antenna and supporting electrical and mechanical equipment must be the same color as the supporting structure so as to make the antenna and related equipment as unobtrusive as possible.

H. Any micro cell facility and related structures shall be situated in such a way that no interference with fire fighting apparatus or emergency access or exits shall result.

I. No more than two micro cell antennae and related accessory structures shall be located on any single building rooftop.

J. All necessary plans, specifications and structural calculations shall be submitted to the building official and if necessary, a building permit application shall be approved prior to the construction of the micro cell facility.

**2.04.575 Minimum floor elevation.**
"Minimum floor elevation" means the lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

**2.04.580 Missions.**
"Missions" means an activity providing personal assistance on a nonprofit basis to individuals of an indigent status. Such assistance must include food and/or shelter and may, in addition, include religious instruction, counseling, and other incidental services customarily provided by missions.

**2.04.585 Modular Home.**
“Modular home” consists of finished units composed of two (2) or more components designed to be joined into one integral unit not capable of being separated into its components for moving and towing; designed to be placed on a permanent foundation with or without a basement. To be classed as a modular home, the completed unit must meet with the specifications of the following:

(1) Building Code, as adopted.
(2) Electric Code, as adopted.
(3) Plumbing Code, as adopted.
(4) Mechanical Code, as adopted.

**2.04.590 Nonconforming use.**
A structure or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is located.

**2.04.595 Noxious matter.**
"Noxious matter" means material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the social, economic or psychological wellbeing of individuals.

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

**2.04.605 On-sale liquor establishment.**
"On-sale liquor establishment" means any use which has been licensed to sell malt beverages, wine, or other alcoholic beverages for consumption upon the premises where sold, except for temporary on-sale license for convention hall and a special malt beverage retailers license.

**2.04.610 Open space.**
“Open space” means the total area of all land on a lot not covered by structures or parking lots.

**2.04.615 Parking lot.**
"Parking lot" means an off-street facility including parking spaces along with adequate provision for drives and aisles for maneuvering and giving access, and for entrance and exit, all laid out in a way to be usable for the parking of more than six automobiles.

**2.04.620 Parking space/off street.**
A hard surfaced parking area of not less than 171 square feet per parking space located behind the curb line of a public street, within a garage or carport, or outside the maintained driving surface of a public street.

**2.04.625 Penthouse.**
"Penthouse" means an enclosed structure other than a roof structure, located on a roof, extending not more than twelve feet above the roof.

**2.04.630 Pet store.**
"Pet store" means a retail facility providing for the sale of animals and accessory products. A pet store does not include the boarding or breeding of animals for compensation.

**2.04.635 Planned development.**
"Planned development" means a procedure set forth in the zoning ordinance which allows for some deviation from the conventional zoning and subdivision ordinances. Each Planned Development shall have a set of development standards and all approved planned developments shall be in keeping with the City of Summerset Comprehensive Plan. Planned developments are regulated by Section 2.24.

**2.04.640 Planning and Zoning Commission.**
The Planning Commission for City of Summerset, South Dakota, which is delegated authority by SDCL 11-6 and the Summerset City Council to review proposals for land use and building

projects, zoning allocations and revisions and make recommendations to the Summerset City Council for approval/disapproval or adoption, respectively.

**2.04.645 Plat.**
"Plat" means a map, plan or layout indicating the location and boundaries of individual properties drawn in compliance to state requirements.

**2.04.650 Principal use.**
"Principal use" means the specific primary purposes for which the land or buildings are used. In any commercial or industrial district more than one principal use of an industrial or commercial nature may be permitted on a single lot provided setback, yard and lot coverage requirements are met. In any residential district any single-family, two-family or multiple dwelling shall be deemed to be the sole principal use on the lot on which it is situated.

**2.04.655 Public uses.**
"Public uses" means public parks, schools, and administrative, cultural, and service buildings not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

**2.04.660 Public utility.**
"Public utility" means any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations, to the public, electricity, gas, steam, communication, telegraph, transportation, or water.

**2.04.665 Quarry.**
"Quarry" means a lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

**2.04.670 Reach.**
“Reach” is a hydraulic engineering term to describe a segment of a stream or river that generally contains a specified feature that is either uniform throughout or requires special attention or study. A reach will generally include the segment of the floodway area where flood heights are influenced by a manmade or natural obstruction (e.g., a segment of a stream or river between consecutive bridge crossings). A "significant reach" may include more than one normal reach based upon the extent of the proposed change.

**2.04.675 Recreational facilities.**
"Recreational facilities" means country clubs, riding stables, golf courses and other private noncommercial recreation areas and facilities, or recreation centers including private swimming pools.

**2.04.680 Recyclables, household.**
“Household recyclables” means waste material from normal household operations accepted at recycling centers including but not limited to glass, plastic, aluminum, tin, newspaper, cardboard, lawn clippings, leaves and tree branches.

**2.04.685 Regulatory flood.**
"Regulatory flood" means a flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood generally has a frequency of approximately one hundred years determined from an analysis of floods on a particular stream and other streams in the same general region.

**2.04.690 Regulatory flood protection elevation.**
“Regulatory flood protection elevation" means the elevation to which uses regulated by this title are required to be elevated or flood proofed.

**2.04.695 Required setback.**
"Required setback" means a distance necessary to obtain the minimum front, side and rear yards required in this title.

**2.04.700 Rooming house.**
“Rooming houses” other than a boarding house, where lodging only is provided for compensation to three or more, but not exceeding (12) persons. A building which has accommodations for more than (12) persons shall be defined as a hotel under the terms of this ordinance.

**2.04.705 Sanatorium.**
See Medical facility.

**2.04.710 Sanitary sewer.**
"Sanitary sewer" means a municipal or community sewage disposal system of a type approved by the Department of Environment and Natural Resources.

**2.04.715 School, private.**
"Private school" means an institution of learning that is not tax supported, including colleges and universities.

**2.04.720 School, public.**
"Public school" means a tax-supported institution of learning, including colleges and universities.

**2.04.725 Self-service laundry.**
"Self-service laundry" means a laundry providing home-type washing, drying and ironing machines for hire to be used primarily by the customers on the premises.

**2.04.730 Sign.** See Chapter 2.30

**2.04.735 Sod farms.**
"Sod farm" means an establishment engaged in the growing of turf grass for ultimate harvesting and sale.

**2.04.740 Sorority.**
See Fraternity.

**2.04.745 Story**.
“Story” means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. (Per Building Code as adopted)

**2.04.750 Story, half.**
“Half story” means a story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above such story. (Per Building Code as adopted)

**2.04.755 Stream.**
"Stream" means an area subject to constant, periodic or occasional inundation.

**2.04.760 Street.**
"Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

**2.04.765 Street grade.**
"Street grade" means the officially established grade of the street upon which a lot fronts or in its absence the established grade of other streets upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

**2.04.770 Street, intersecting.**
"Intersecting street" means any street which joins another street at an angle, whether or not it crosses the other.

**2.04.775 Street line.**
"Street line" means the legal line between street right-of-way and abutting property.

**2.04.780 Structure.**
"Structure" means a combination of materials to form a construction that is safe and stable and includes, but is not limited to, the following: stadiums, platforms, radio and television antennae towers, permanent satellite dish antennae and the appurtenant mounting apparatus, sheds, storage bins, fences, and display signs.

**2.04.785 Tax Incremental Financial District**
As defined by South Dakota Codified Laws.

**2.04.790 Temporary trailer parks or campgrounds**
"Temporary trailer parks or campgrounds" means a tract of land within any nonresidential or general agricultural district whereupon travel or camping trailer, as defined in Section 2.04.835, or any tent, a temporary use permit may be issued for a period not to exceed thirty days.

**2.04.795 Theater, moving picture.**
"Moving picture theater" means a building or part of a building devoted to the showing of moving pictures on a paid admission basis.

**2.04.800 Theater, outdoor drive-in.**
"Outdoor drive-in theater" means an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

**2.04.805 Tourist cabin.**
See Hotel/Motel.

**2.04.810 Tourist court.**
See Hotel/Motel.

**2.04.815 Tourist home.**
"Tourist home" means a dwelling in which sleeping accommodations in not more than four rooms are provided or offered for transient guests for compensation.

**2.04.820 Trailer.**
See Manufactured home.

**2.04.825 Trailer court.**
See Manufactured home court.

**2.04.830 Trailer, hauling.**
"Hauling trailer" means a vehicle which is designed for hauling animals, produce, goods or commodities, including boats, said vehicle to be pulled behind an automobile or truck.

**2.04.835 Trailer, travel or camping.**
"Travel or camping trailer" means a portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants, and not constituting the principal place of residence of the occupants.

**2.04.840 Use.**
"Use" means the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**2.04.845 Utilities.**

"Utilities" means municipal and franchised utilities.

**2.04.850 Utility Facility, Neighborhood.**
“Utility Facility, Neighborhood” Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment necessary for conducting a service by a government or a public utility excluding yards and outdoor facilities that do not exceed 150 square feet of area).

**2.04.855 Utility Facilities, Public.**
“Utility Facilities, Public” See " utility facilities, neighborhood." The definition is the same as the neighborhood except that yards and outdoor facilities that exceed 150 square feet of area are allowable.

**2.04.860 Variance.**
“Variance” means an officially approved exception to the strict interpretation of Zoning Ordinance requirements and regulations as set forth. An approved variance is a vested property right that runs with the land.

**2.04.865 Vehicle, inoperable**
"Inoperable vehicle" means a vehicle which has one or more major components missing or severely damaged for a period of twenty-four hours or more. Major components include: wheels, windshields, engine, transmission and major body parts, such as the doors, hood, trunk, roof and quarter panels.

**2.04.870 Walkway.**
"Walkway" means a hard surface path or area for pedestrians to include sidewalks with a minimum width of 48 inches.

**2.04.875 Way.**
"Way" means a street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

**2.04.880 Wind energy conversion system.**
“Wind energy conversion system” (WECS) means an aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires, and accessory equipment such as utility interconnections, battery banks, etc. in such a configuration as necessary to convert the power of wind into mechanical or electrical energy. WECS are also known as wind chargers, windmills, or wind turbines.

**2.04.885 Yard.**
"Yard" means an open space between a building and the lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this title, that building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard,

the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

**2.04.890 Yard, front.**
"Front yard" means an open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the street line and the front line of the building projected to the side line of the lot. The depth of the front yard shall be measured between the front line of the building and the street line.

**2.04.895 Yard, rear.**
"Rear yard" means an open (other than for permitted accessory structures) space on the same lot with the principal building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

**2.04.900 Yard, side.**
"Side yard" means an open unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

**2.04.905 Zoning district.**
See District.

## CHAPTER 2.06 ZONING DISTRICTS AND MAPS

### 2.06.010 Zoning districts--Established.

A. For the purpose of promoting the public health, safety, morals, convenience and the general welfare of the community, City of Summerset is divided into districts of eleven different types, each type being of such number, shape, kind and area, and such common unity of purpose, and adaptability of use that are deemed most suitable to carry out the purpose of this title.

B. The types of districts are as follows:
The City of Summerset is hereby divided into districts of seven different types, each being of such number, shape, kind and area, and being of such common unity of purpose and adaptability of use as are deemed most suitable to carry out the purpose of this ordinance.

Types of Districts:

AG Agricultural
R1 Single-Family Residential
R2 One and Two Family Residential
R3 Multi-Family Residential
C1 General Commercial
GI General Industrial
PD Planned Development

### 2.06.020 Zoning map.

The location and boundaries of the zoning districts established by this ordinance are illustrated by the map entitled "Zoning Map of Summerset, South Dakota," adopted, and from time to time amended together with this ordinance. The Zoning Map is hereby incorporated into this ordinance as is fully set forth, and from time to time amended as necessary and described herein. The Zoning Map and description of the area shall be kept, maintained, and displayed at an appropriate location in City Hall.

### 2.06.030 Rules for interpretation of district boundaries.

Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the zoning map, the following rules shall apply:
A. Boundaries shown as following or approximately following streets, highways or alleys shall be construed to follow the centerlines of such streets, highways or alleys.

B. For boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be the boundary lines.

C. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.

D. Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel

centerline of such watercourses and the boundaries shall be deemed to be at the limit of the jurisdiction of the city unless otherwise indicated.

E. Boundaries shown as following or closely following the limits of the city shall be construed as following such limits.

F. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts; the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the City Commission.

G. Whenever any street, alley or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

**2.06.040 Scope of regulations**

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

## CHAPTER 2.08 AG AGRICULTURAL DISTRICT

### 2.08.010 General Description.

This district is intended to provide for land situated on the fringe of the urban area that is used for agricultural purposes, but will be undergoing urbanization in the future. Most of these areas will be in close proximity to residential and commercial uses and therefore the agricultural activities conducted in this district should not be detrimental to urban land uses. It is not intended that this district provide a location for a lower standard of residential, commercial or industrial development than is authorized in other districts. The types of uses, area and intensity of use of land which is authorized in this district is designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

### 2.08.020 Uses Permitted.

Property and structures in the AG-Agricultural District shall be used only for the following purpose:

A. Agricultural uses such as general farming, pasture, grazing, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting including roadside stands exclusively for the sale of produce, but excluding commercial feed lots;

B. Detached single-family dwellings;

C. Transportation and utility easements, alleys and rights-of-way;

D. Signs;

E. Accessory buildings and uses customarily incidental to the above uses when located on the same lot;

F. Veterinary Clinics, subject to the following requirements:

1. confinement pens for large animals and outdoor runs for small animals shall maintain a minimum setback of 80’ from all property lines.
2. the clinic facility shall be constructed and operated in such a manner as to minimize the transmission of sound to neighboring properties.
3. fenced outdoor runs and exercise areas shall be used only during normal business hours and shall be screened to a height of 8 feet.

G. Home Occupations; and,

H. Home Day Care.

### 2.08.030 Conditional Uses.

After the provisions of Chapter 2.36 relating to conditional uses have been fulfilled, the planning and zoning commission may permit as permitted conditional uses:

A. Wind energy conversion systems as regulated in Chapter 2.26;

B. Elementary, middle, or high school, subject to:

1. One of the principal frontages of the premises shall abut upon an arterial or collector street.

C. Radio, television and cellular communication tower, subject to:

1. A minimum distance of 300 feet from the telecommunications tower to any residentially zoned or used property measured from the base of the telecommunications tower to the property line.

D. Cemetery;

E. Kennel;

F. Stable, public;

G. Family day care or a day care center; and,

H. Public parks and/or playgrounds.

**2.08.040 Area Regulations.**

All setbacks shall be measured from the owner's property lines.

A. Front setback:

All structures, (25) feet.

B. Side setback:

1. Primary uses, (8) feet.
2. Corner lots, two front setbacks and two side setbacks.
3. Unattached buildings of accessory use located on interior lots, (5) feet.

C. Rear setback:

1. Primary uses, (25) feet.
2. Unattached buildings of accessory use (5) feet.

D. Lot width: Minimum (75) feet at the front building line.

E. Minimum lot size: (20) acres.

F. Maximum lot coverage: (10) percent

**2.08.050 Height Regulations.**

Structures shall not exceed 2 ½ stories or (35) feet.

**2.08.060 Other Regulations.**

Development within the agricultural district (AG) shall be regulated in conformance with the provisions of Chapter 2.26 "Additional Use, Yard, and Height Requirements", Chapter 2.28 "Parking, Loading, and Stacking Requirements", Chapter 2.30 "Sign Regulations" and Chapter 2.32 "Landscape Requirements".

## CHAPTER 2.10 R1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

### 2.10.010 General Description.

This district is intended to be used for single-family residential development with low population densities and such supportive community facilities as parks, playgrounds, schools, libraries and churches normally required to provide the basic elements of a balanced and attractive residential area. It is intended that this district provide protection for those areas existing as, or planned for, single-family neighborhoods.

### 2.10.020 Uses Permitted.

Property and buildings in an R1 District shall be used only for the following purposes:

A. Detached single-family dwellings;

B. Utility facility, neighborhood, transportation and utility easements, alleys and rights-of-way;

C. Accessory buildings and uses customarily incidental to the above uses when located on the same lot;

D. Signs;

E. Home day care; and,

F. Home occupation.

### 2.10.030 Conditional Uses.

After the provisions of Chapter 2.36 relating to conditional uses have been fulfilled, the planning and zoning commission may permit as permitted conditional uses:

A. Assisted living center which contains not more than 12 units;

B. Bed and breakfast facility;

C. Boarding houses and rooming houses;

D. Cemeteries;

E. Places of worship;

F. Colleges and universities;

G. Convalescent, nursing and rest homes;

H. Day care, family;

I. Group home;

J. Golf courses and country clubs;

K. Governmental services;

L. Public recreational and park facilities;

M. Radio, television and telecommunication or wireless communication towers;

N. Utility facility, public;

O. Elementary, middle, and high schools, public or private; and,

P. Other uses may be allowed, provided they are not found to be contrary to intended uses of the district.

**2.10.040 Area Regulations.**
All setbacks shall be measured from the owner's property lines.
A. Front setback:
All structures, (25) feet.

B. Side setback:
All structures, (8) feet.

C. Rear setback:
A. Primary uses, (25) feet.
2. Unattached buildings of accessory use, (8) feet.

D. Lot width: There shall be a minimum lot width of (75) feet at the front building line.

E. Minimum lot size: (8,500) square feet, for any nonresidential use and their accessory buildings, (30,000) square feet.

F. Maximum lot coverage: (35) percent.

**2.10.050 Height Regulations.**
Principal structures shall not exceed 2 ½ stories or (35) feet; accessory structures shall not exceed (15) feet.

**2.10.060 Other Regulations.**
Development within the single-family residential district (R1) shall be regulated in conformance with the provisions of Chapter 2.26 "Additional Use, Yard, and Height Requirements", Chapter 2.28 "Parking, Loading, and Stacking Requirements", Chapter 2.30 "Sign Regulations" and Chapter 2.32 "Landscape Requirements".

## CHAPTER 2.12 R2 ONE AND TWO FAMILY RESIDENTIAL DISTRICT.

### 2.12.010 General Description.

This is a residential district to provide for medium population density. The principal uses of land is for single-family and two family residential uses and such supportive community facilities as parks, playgrounds, schools, libraries and churches normally required to provide the basic elements of a balanced and attractive residential area. It is intended that this district provide protection for those areas existing as, or planned for, single-family neighborhoods.

### 2.12.020 Uses Permitted.

Property and buildings in an R2 Residential District shall be used only for the following purposes:

A. Any use permitted in an R1 Single-Family Residential District;

B. Two-family dwelling; and,

C. Townhouses.

### 2.12.030 Conditional Uses.

After the provisions of Chapter 2.36 relating to conditional uses have been fulfilled, the planning and zoning commission may permit as permitted conditional uses:

A. Any conditional uses in, and subject to all the same requirements as in an R1 district.

### 2.12.040 Area Regulations.

All setbacks shall be measured from the owner's property lines.

A. Front setback:

All structures, (25) feet.

B. Side setback:

1. All structures, (8) feet
2. Unattached buildings of accessory use, (8) feet.

C. Rear setback:

1. Primary uses, (25) feet.
2. Unattached buildings of accessory use, (8) feet.

D. Lot width: There shall be a minimum lot width of (65) feet at the front building line, except for townhouses which shall a minimum of 35 feet at the front building line.

E. Minimum lot size:

1. For each single-family dwelling, served by a sanitary sewer system, there shall be a lot area of not less than 7,000 square feet.
2. For each 2-family dwelling there shall be a lot area of not less than 9,500 square feet.
3. For townhouse and assisted living structures, there shall be a lot area of not less than 4,500 square feet plus an additional 2,500 square feet for each townhouse unit which shall not exceed two units or assisted living unit.

4. For places of worship and other main and accessory buildings their accessory buildings, (30,000) square feet.

F. Maximum lot coverage: (40) percent.

**2.12.050 Height Regulations.**
Dwellings shall not exceed (2 ½) stories or (35) feet; accessory structures shall not exceed (15) feet.

**2.12.060 Other Regulations.**
Development within the one and two family residential district (R2) shall be regulated in conformance with the provisions of Chapter 2.26 "Additional Use, Yard, and Height Requirements", Chapter 2.28 “Parking, Loading, and Stacking Requirements”, Chapter 2.30 “Sign Regulations” and Chapter 2.32 “Landscape Requirements”.

## CHAPTER 2.14 R3 MULTI-FAMILY RESIDENTIAL DISTRICT.

### 2.14.010 General Description.

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

### 2.14.020 Uses Permitted.

Property and buildings in an R3 Multi-Family
Residential District shall be used only for the following purposes:
A. Any use permitted and as regulated in R1 and R2 Districts; and,

B. Multi-family dwelling units.

### 2.14.030 Conditional Uses.

After the provisions of Chapter 2.36 relating to conditional uses have been fulfilled, the planning and zoning commission may permit as permitted conditional uses:
A. Any conditional uses in, and subject to all the same requirements as in an R1 and R2 districts; and,

B. Manufactured home parks.

### 2.14.040 Area Regulations.

All setbacks shall be measured from the owner's property lines.
A. Front setback:
1. (25) feet for single, two-family and multi-family dwellings not exceeding (2 ½) stories.
2. (35) feet for multiple-family dwellings more than (2 ½) stories.
3. Unattached buildings of accessory use, (25) feet.
4. Places of worship and their accessory buildings, (35) feet.

B. Side Setback:
1. Single and two-family residential dwellings, (8) feet.
2. Multi-family dwellings, (12) feet.
3. For each additional story above two stories, one foot additional side setback.
4. Unattached buildings of accessory use, (8) feet.
5. Places of worship and their accessory buildings, (35) feet.

C. Rear Setback:
1. Primary uses of (2) stories in height and less, (25) feet.
2. For all primary uses of (3) stories and more in height, (30) feet.

D. Lot Width:
1. There shall be a minimum lot width of (65) feet at the front building line, except for townhouses and multi family dwellings.

2. There shall be a minimum lot width of (75) feet at the front building line, for all other dwellings, except townhouses.

E. Minimum lot size:

1. For each single-family dwelling, there shall be a lot area of not less than 7,000 square feet.
2. For each 2-family dwelling there shall be a lot area of not less than 9,500 square feet.
3. For multi-family structures, townhouses and assisted living structures, there shall be a lot area of not less than 4,500 square feet plus an additional 2,500 square feet for each dwelling unit or assisted living unit.
4. For places of worship and other main and accessory buildings their accessory buildings, (30,000) square feet.

F. Maximum lot coverage: (30) percent.

**2.14.050 Height Regulations.**
Maximum (5) stories or (60) feet, maximum (15) feet for unattached accessory buildings.

**2.14.060 Other Regulations.**
Development within the multi-family residential district (R3) shall be regulated in conformance with the provisions of Chapter 2.26 "Additional Use, Yard, and Height Requirements", Chapter 2.28 “Parking, Loading, and Stacking Requirements”, Chapter 2.30 “Sign Regulations” and Chapter 2.32 “Landscape Requirements”.

**2.14.070 USEABLE OPEN SPACE:** For all multi-family uses of land, useable open space shall be provided as follows:
Dwelling Height Open Space per Dwelling Unit:

2 story 400 sq. ft.
3-5 story 300 sq. ft.

**2.14.080 REQUIRED PLAY AREA:** For all multi-family uses of land, a designated and defined play area for children shall be provided, based on the formula of (50) square feet per dwelling unit. Square footage of the play area shall be computed as part of usable open space. The requirements of this section shall not apply to multi family developments exclusively restricted to the elderly.

## Chapter 2.18 C1 GENERAL COMMERCIAL DISTRICT

**2.18.010 General Description.**
This commercial district is for personal and business services and the general retail business of the City.

**2.18.020 Uses Permitted.**
The following uses shall be permitted in the C1 General Commercial District.
A. Retail establishments, including incidental manufacturing of goods for sale at wholesale or retail on the premises, providing there are 3 or less employees engaged in the manufacture of the product;

B. Eating and drinking establishments;

C. Service and repair establishments;

D. Personal service establishments;

E. Hotel, motel, rooming and boarding house, bed and breakfast;

F. Entertainment services;

G. Parking lots and garages.

H. Offices;

I. Financial institutions;

J. Private clubs and lodges;

K. Newspaper and printing firms;

L. Residential uses subject to the requirements and regulations of Chapters 2.10, 2.12 and 2.14;

M. Places of worship;

N. Signs;

O. Libraries; museums; art galleries; planetarium; aquariums; historic and monument sites;

P. Governmental services;

Q. Gasoline, diesel, propane, and CNG service stations;

R. Building material sales;

S. Garden centers, greenhouses and nurseries;

T. New and used vehicle sales;

U. Farm implement and machinery, new and used sales;

V. Truck and trailer rental and sales;

W. Monument sales;

X. Sales of prefabricated houses;

Y. Auction houses;

Z. Manufactured home sales and services;

AA. Taxidermists;

BB. Open storage uses which shall comply with the following requirements:
1. All open storage and display of merchandise, material and equipment shall be screened by a solid fence seven (7) feet high at the side and rear of the lot which abuts any residential district.

2. Driveways used for ingress and egress shall not exceed forty (40) feet in width, exclusive of curb returns.

3. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lighting which will not interfere with adjacent land uses or the use of adjacent streets.

CC. Small Animal Veterinary Clinics, subject to the following requirements:
1. Outdoor runs shall maintain a minimum setback of 40' from all property lines, and 100' from residential uses.
2. The clinic facility shall be constructed and operated in such a manner as to minimize the transmission of sound to neighboring properties.
3. Fenced outdoor runs and exercise areas shall be used only during normal business hours, and shall be screened to a height of 8 feet.

DD. Inpatient and outpatient health care facilities and clinics;

EE. Long term care, congregate and assisted living facilities;

FF. Educational facilities and institutions;

GG. Light manufacturing and office park uses;

HH. Public and private recreation facilities and their ancillary services;

II. Public and private transportation, neighborhood utility facility and public safety facilities;

JJ. Agricultural uses; and,

KK. Parking lots and garages.

**2.18.030 Conditional Uses.**
After the provisions of Chapter 2.36 relating to conditional uses have been fulfilled, the planning and zoning commission may permit as permitted conditional uses:
A. Video lottery;

B. Radio, television and telecommunication or wireless communication towers;

C. Day care center;

D. Utility facility, public; and,

E. Other uses may be allowed, provided they are not found to be contrary to intended uses of the district

**2.18.040 Area Regulations.**
All setbacks shall be measured from the owner's property lines.
A. Front setback: None.

B. Side setback: None.

C. Rear setback: None.

D. Lot width: No minimum requirement

E. Minimum lot size: No minimum requirement

F. Lot coverage: No maximum percentage of lot coverage except that, for buildings serviced from the rear, space shall be provided either inside or outside the building for loading or unloading goods and materials. Such space shall have access to a street or other public way.

**2.18.050 Height Regulations.**
Maximum (5) stories, or (60) feet.

**2.18.060 Other Regulations.**
Development within the general commercial district (C1) shall be regulated in conformance with the provisions of Chapter 2.26 "Additional Use, Yard, and Height Requirements", Chapter 2.28 "Parking, Loading, and Stacking Requirements", Chapter 2.30 "Sign Regulations" and Chapter 2.32 "Landscape Requirements".

## Chapter 2.22 GI GENERAL INDUSTRIAL DISTRICT

### 2.22.010 General Description.

The General Industrial District (GI) is established to provide areas in which the principal use of land is for light manufacturing and assembly plants, processing, storage, warehousing, wholesaling, and distribution in which operations are conducted so that noise, odor, dust, and glare are completely confined within an enclosed building.

### 2.22.020 Uses Permitted.

The following uses shall be permitted in the GI General Industrial District:

A. Wholesale distributing companies, all commodities except live animals, explosives and junk;

B. Assembling, and packaging, freight handling, light manufacturing, storage and warehousing and similar operations;

C. Factory outlet stores for the retail sale and showrooms for the display of goods manufactured on-site;

D. Service and research and development establishments;

E. Contractor's shop/storage yard;

F. Ministorage facility;

G. Utility facility, Public and Neighborhood;

H. Signs;

I. Motor vehicle repair, provided that all body and/or mechanical repair work shall be completed within the building area. All inoperable vehicles shall be stored within a building or within a side or rear yard which is screened with an opaque fence at least 6 feet in height;

J. Carwashes;

K. Bus garaging and equipment maintenance;

L. Veterinary establishments and kennels;

M. Farm and contractor implement sales, display and service;

N. Farm store or feed store;

O. Manufactured home sales and services; and,

P. Accessory uses and buildings. Any accessory building shall be located on the same lot with the principal building.

**2.22.030 Conditional Uses.**
After the provisions of Chapter 2.36 relating to conditional uses have been fulfilled, the planning and zoning commission may permit as permitted conditional uses:
A. Stockyards/slaughtering of animals;

B. Processing of minerals, rendering or refining any organic or inorganic material, explosive manufacture storage, grain and forage processing and handling, alcohol or ethanol plant, or similar products or processes;

C. Ready-mix concrete plant;

D. Asphalt concrete plant;

E. Solid waste transfer facility;

F. Recycling processing facility;

G. Junkyard or salvage yard;

H. Landfill; and,

I. Other uses may be allowed, provided they are not found to be contrary to intended uses of the district.

**2.22.040 Area Regulations.**
All setbacks shall be measured from the owner's property lines.
A. Front setback: (25) feet. Buildings with sidewalls over (20) feet shall have a (40) foot front setback.

B. Side setback: (25) feet

C. Rear setback: (25) feet

D. Minimum lot width: (100) feet except in cul-de-sac areas

E. Minimum lot size: (15,000) square feet

F. Maximum lot coverage: (75) percent

**2.22.050 Height Regulations.**
Maximum (5) stories or (60) feet.

**2.22.060 Parking and Loading Requirements.**
1. No loading dock shall be constructed facing any public street unless it is constructed a minimum of (80) feet from the property line.

2. All loading, unloading and maneuvering operations shall be off-street. No loading or unloading shall be permitted which will interfere with ingress or egress thereto. Driveways and access roads to loading or unloading facilities shall be paved at least as far as the defined setback area.
3. Paved surface areas required: All parking areas, loading and unloading areas shall be hard-surfaced.
4. All provision of Chapter 2.28 Parking, Loading and Stacking Requirements shall be met.

**2.22.070 Screening.**
1. All provision of Chapter 2.32 Landscaping Requirements shall be met.
2. Open storage restrictions: There shall be no open storage of material, equipment or products unless behind an opaque screen which is not less than the height necessary to completely screen the use. All fencing or screening shall be aesthetically compatible with the building design and shall be of an all-wood material, or vinyl, or masonry, or concrete in the case of walls, or all metal construction for security fences. No security fence or screen shall be permitted to extend closer to the street than the building setback line. All fences and screening shall be maintained in good condition and in the case of walls, shall be properly painted. Short-term storage of (48) hours or less shall be allowed in any areas adjacent to buildings. If scrap storage is necessary, the same shall be on a concrete pad and completely screened from view. No storage shall be permitted, even if conforming with the requirements of this paragraph, if the same shall create a health hazard for occupants of adjacent properties or to the public.

**2.22.080 Other Regulations.**
Development within the general industrial district (GI) shall be regulated in conformance with the provisions of Chapter 2.26 "Additional Use, Yard, and Height Requirements", Chapter 2.28 “Parking, Loading, and Stacking Requirements”, Chapter 2.30 “Sign Regulations” and Chapter 2.32 “Landscape Requirements”.

## Chapter 2.24 PLANNED DEVELOPMENT DISTRICT

### 2.24.010 General Description.

The purpose of the Planned Development District (PD) is to allow development of undeveloped parcels of land that, by virtue of their visually and/or environmentally unique location, lend themselves to a blend of diverse yet compatible uses, innovative layouts or sensitive designs. Development of such parcels shall be accomplished while meeting public requirements, including preservation, promotion and protection of open space, scenic vistas and natural resources, by the application of extra administrative controls. All final plans in the Planned Development District shall be recommended by the Planning and Zoning Commission and approved by the City Commission under the procedure set forth in 2.24.050 below. Final approval by the City Commission is deemed to be an administrative act not subject to referendum.

### 2.24.020 Uses Permitted.

Unless expressly prohibited in 2.24.030 below, the following uses are permitted:

A. Any permitted and conditional use in the AG-Agricultural District;

B. Any permitted and conditional use in the R1- Single-Family Residential, R2 - One and Two Family Residential, and R3 - Multi-Family Residential Districts; and,

C. Any permitted and conditional use in the C1 - General Commercial District.

### 2.24.030 Used Prohibited.

A. New and used vehicle or machinery sales and service;

B. Manufactured home sales;

C. Building material sales;

D. Truck terminals, stand-alone warehouse facilities;

E. Use requiring unscreened outside storage;

F. Industrial uses; and,

G. Off-premise signs unless already located on the property.

### 2.24.040 Minimum Requirements for Improvements and Design.

A. General: minimum requirements for improvements and design are not subject to modification by the procedure outlined in 2.24.050. Projects that exceed the minimum requirements are encouraged.

B. Area regulations:

1. Front, side and rear setbacks, lot width and size are governed by the minimum requirements for parking and open space as described per Sections C and F below.

2. Height restrictions:
   (1) Commercial uses – 5 stories or 60 feet
   (2) Residential uses – 5 stories or 60 feet
   (3) All other uses – 5 stories or 60 feet

C. Parking: for individual uses, or approved as a comprehensive parking plan for integrated uses or for the overall development.

D. Lighting: all lighting shall be fully shielded, 85% full cut-off fixtures.

E. Signs: as regulated for individual uses, or approved as a comprehensive signage plan for the overall development which, when evaluated as a whole.
All illuminated signage shall be down-lighted or back-lighted.

F. Open Space:
1. Common open space – a minimum total area of 10% of the land included in the application shall be comprised of common open space, which shall be used for amenity or active or passive recreational use. Open space containing natural features may be left unimproved. Designated amenities including parks, playgrounds, etc; shall be installed immediately or bonded.
2. Individual lot open space – Commercial, 20%; all other uses, 30%

G. Landscaping: each application shall include a comprehensive landscaping plan showing the location and species of all plant materials and an irrigation plan, meeting the minimum requirements of the Section 2.32. Additional requirements in the form of berms, open yard buffer areas, landscape islands and live and/or constructed screening are encouraged and may be imposed as conditions of landscape plan approval.

H. Transportation system: each application shall include a transportation plan showing points of ingress and egress, circulation pattern, and integration with the system to which it relates.
1. All streets, sidewalks, pedestrian ways and rights-of-way to be dedicated to the City shall conform to the minimum requirements of the regulations of the Ordinances of the City of Summerset, as adopted and in effect when the plan is approved.
2. All streets, sidewalks, pedestrian ways and rights-of-way to remain private shall be subject to approval as part of the overall development plan.

**2.24.050 Procedure.**
A. Initial development plan:
When a petitioner wants to request rezoning to the planned development district, he shall submit his request to the planning department, showing the information specified in 2.24.060 below, a minimum of 20 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 city commission on the requested rezoning. The city commission shall then act to approve or deny said request. This request for rezoning is subject to the requirements

for amendment of the ordinance specified in chapter 2.38.030. No building 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 2.24.070 below, to the planning commission, who shall make a recommendation to the city commission on the requested rezoning. The city commission shall then act to approve or deny said request. This request for rezoning is subject to the requirements for amendment of the ordinance specified in chapter 2.38.030.

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. Signs shall be posted on the property for a continuous period of seven days immediately prior to any public hearing held by the planning commission or city council to consider any final development plan. Said signs shall be furnished by the city and posted by the applicant in the numbers and locations prescribed by the administrator.

C. Amendments:

1. Major amendments. Major amendments to the initial and/or final development plan shall be required to be approved with a public hearing in the same manner as provided for in chapter 2.38.030.

2. Minor amendments. Minor amendments to the initial and/or final development plan shall be required to be approved by the planning commission. Notice of such hearing shall be given by the posting of not less than four signs provided by the city.

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 administrator on a reproducible development plan showing the requested changes. The planning director may then approve such change in writing if he/she deems it appropriate.

**2.24.060 Initial development plan.**
Upon application for rezoning to planned development district, the petitioner shall present an initial development plan to the planning commission for review, and to the city council for their approval showing the following information:
A. Project name and legal description.

B. A preliminary subdivision plan in compliance with the Subdivision Ordinance.

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.

In addition the developer shall provide an 8 1/2 x 11 scaled rendering on mylar of the approved initial development plan showing each of the subareas.

**2.24.070 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 review, and to the city council for their approval showing the following information:

Final development plan approval shall expire one year from the date upon which it becomes effective if no work has commenced. Upon written request to the administrator and prior to the final development plan approval expiration date, a time extension for the final development plan approval may be granted.

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 in compliance with the Subdivision Ordinance.

D. A scale drawing showing the following information will be required:

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.
4. Any sidewalks, bikeways or other paths.

5. Any outdoor lighting, type and location, except for standard street lights provided by the city.

6. 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.

7. All existing and proposed utilities, drainage ways, water courses and location of above ground existing utilities on adjacent property.

8. Proposed final ground contours.

9. Curb cuts and all private drives.

10. Adjacent, existing and proposed uses.

11. First floor elevation for any structure located in a flood hazard area.

12. Accurate building elevation of all proposed structures.

13. Documentation of the ownership and maintenance responsibility of any common open spaces, structures or facilities, including private streets.

14. 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.

15. Proposed parking and loading spaces which shall be in conformance with chapter 2.28 of this appendix, except where unique physical, environmental or design characteristics make such requirements undesirable.

16. 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. For example: townhouses on block X shall be developed in conformance with the requirements of the R1, residential district.

**2.24.080 Amendments.**

A. Major amendments: The following changes in an initial and/or final development plan are considered major amendments:

1. Any change in the proposed land uses shall follow a rezoning process.

2. An increase in density above that provided for in 2.24.080.B.5 shall follow a rezoning process.

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. Any change in the number or location of curb cuts.

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 percent for a subarea with less than eight units.

b. Less than 15 percent for a subarea with between nine and 20 units.

c. Less than eight percent for a subarea with 21 units or more.

6. Any change in the number of parking spaces.

7. Any minor change to on-premise signage.

8. Any major change in the street pattern.

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 reduction in density and scale.
3. Any minimal change in the street pattern.
4. Any minimal change in the parking and loading requirements.
5. Any minimal change to on-premise signage.
6. Any adjustment in the size or shape of the building envelope by reducing the building setback by one (1) foot or less.

**2.24.090 Planned development districts.**

## CHAPTER 2.26 ADDITIONAL USE, YARD, AND HEIGHT REQUIREMENTS

### 2.26.010 General Permitted Uses Regulations.

A. The uses of land, buildings, and other structures permitted in each of the districts established by this title are designated by listing the principal uses permitted. If a use is not specifically listed in the permitted use, said use is not a permitted use allowed in the district. In addition to such principal uses, there may be uses customarily incidental to any principal use permitted in the district know as accessory uses.

B. In the commercial and industrial districts more than one principal use and structure may be allowed on a lot if all of the other regulations and standards of this title are met. In any residential district any single-family attached dwelling, single-family detached dwelling and 2-family dwelling shall be deemed to be the sole principal use on the lot on which it is situated. A multi-family residential district, more than one multi-family dwelling building may be allowed if all of the other regulations and standards of this title are met and the detail site plan is approved by the Planning and Zoning Commission.

C. Division of a lot: No recorded lot shall be divided unless such division results in the creation of lots, each of which conforms to all of the applicable regulations of the district in which the property is located. No reduction in the size of a recorded lot below the minimum requirements of this ordinance shall be permitted. Exception: Changing the direction of interior lot lines on adjoining lots adjacent to the corner of two streets, which does not result in a reduction of the square footage of either lot.

D. Where there are existing recorded lots which do not meet the minimum lot area requirement, single-family dwellings may be constructed as long as a side yard shall be not less than 4 feet and the sum of the side yards shall be not less than 12 feet and as long as all other requirements, except lot size, are met.

E. Where a permitted use of land involves no structures, such use, excluding agricultural uses, shall nonetheless comply with all yards and minimum lot area requirements applicable to the district in which located, as well as obtain any other license or permit applicable to that particular use.

F. A building permit may be issued for a structure having access from an unimproved street, but in no case shall the structure be occupied until the street has been improved and water and sewer has been installed to City standards. Surety for said improvements shall be posted before the issuance of the building permit.

### 2.26.020 General Accessory Use and Structure Provisions.

Each permitted accessory use shall:

A. Be customarily incidental to the principal use established on the same lot;

B. Be subordinate to and serve the principal use;

C. Be subordinate in area, extent and purpose to the principal use; and

D. Contribute to the comfort, convenience or necessity of users of such principal use.

**2.26.030 Permitted Accessory Structures.**
Accessory uses shall be permitted as specified in Section 2.26.020, and such accessory uses shall be applicable to the principal use and shall include, but not be limited to the following:

A. For dwellings:

1. Private garage or carport used primarily for storage and which shall not be used for commercial purposes. The maximum cumulative allowable size of all garages or carports shall be 1,500 square feet or 30% of the size of the gross floor area of the dwelling unit(s), whichever is greater. In no event shall the size of the building footprint of the garage(s) or carport(s) exceed the footprint of the dwelling unit(s). The garage(s) or carport(s) shall be used only by persons residing on the premises. Any garage not meeting these requirements shall be allowed only as a conditional use pursuant to Chapter 2.36.
2. Children's playhouse, playground equipment and recreation equipment used on the lot;
3. Private greenhouse, vegetable, fruit or flower garden, garden house, pergola, barbecue or fireplace;
4. Private tennis court, swimming pool and bathhouse; and;
5. Shed for the storage. Any storage building larger than 200 square feet shall be considered a private garage.

B. For church, chapel, temple or synagogue:

1. Parish house, or residence for the clergymen of the congregation; and
2. Religious education building.

**2.26.040 Home Occupations.**
Home occupations are those secondary uses allowed on a premise in conjunction with the following:

A. The occupation must be conducted entirely within a dwelling unit or within a private garage.

B. The occupation must be clearly incidental and secondary to the principal use of the dwelling for dwelling purposes.

C. Only members of the immediate family residing on the premises may be employed by or participate in the home occupation.

D. The area set aside for a home occupation shall not exceed 20% of the total floor area of the residence, including garages. The permissible floor area includes that space necessary for storage of goods or products associated with the home occupation.

E. There can be no evidence other than the nameplate referred to in (F.) below that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

F. Home Occupation sign as regulated in Chapter 2.30

G. Such occupations shall not require substantial external alterations or involve construction features not customary in a dwelling.

H. Merchandise offered for sale shall be clearly incidental to the home occupation.

I. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restricted material shall be stored on site.

J. Any process which will cause odor, dust, glare, noise, heat or vibration which would have a negative effect on adjacent properties would not be allowed. No mechanical equipment other than that ordinarily utilized within a dwelling unit for household or hobby purposes shall be permissible.

K. No visible evidence of the conduct of such home occupation shall be visible from any public way or neighboring property except for one commercial vehicle associated with the home occupation may be park on the premise.

L. Public access to the home occupation shall be by invitation only and there shall ordinarily be no more than one vehicle not owned by the occupants on or adjacent to the property for business purposes except that appointments may overlap for time period not exceeding 30 minutes. Occasional parties, meetings or classes associated with home occupations are permissible. The parties, meetings or classes shall in no case be held more than four times monthly and vehicles shall in no way impede the safety and flow of traffic within the neighborhood. If the home occupation is the type in which classes are held or instructions given, there shall be no more than four students on the premises at any one time

M. Home occupations shall be restricted to the hours of 8:00 a.m. to 8:00 p.m.

N. Any proposed home occupation which does not meet the criteria as established in this section may be allowed as a conditional use and must follow the requirements of Chapter 2.36.

**2.26.050 Temporary Uses**

The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

A. In any nonresidential zoning district, a temporary use permit may be issued for a seasonal greenhouse or garden shop, but such permit shall be issued for a period of not longer than 90 days. Seasonal greenhouses and garden shops are exempt from any maximum floor area requirement. Seasonal greenhouses or garden shops shall conform to the clear sight triangle, setback and parking requirements this title.

B. In any district, a temporary use permit may be issued for the display and open-lot sales of Christmas Trees, but such permit shall be issued for a period of time commencing no earlier than November 1 and ending prior to January 5 of the following year.

C. In any district, a temporary use permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such office or shed shall not contain sleeping or cooking accommodations. Such permit shall be valid for the duration of the construction period. Such office or shed shall be removed upon completion of the construction of the structure(s).

D. Carnival, circus, or similar event. In any nonresidential district, a temporary use permit may be issued for a carnival, circus, or tent but such permit shall be issued for a period not longer than 14 days.

E. A farmer's market, as defined in Section 2.04.320 may be conducted in any nonresidential zoning district subject to such conditions and limitations as the Commission may direct in designating such farmer's market as a community activity.

F. In any nonresidential zoning district, a temporary use permit may be issued to the operator of a 10-day temporary business in accordance with the following provisions:

1. A temporary use or structure may occupy a development lot for not more than 10 days and shall vacate the lot for a period of 180 days.
2. All temporary structures shall contain approved toilet facilities or shall have contracted with the owners of permanent toilet facilities within 300 feet for employee access to the facilities. Operations that include prepared foods or beverages shall provide or have contracted for access to approved toilet facilities by customers of the business.
3. All temporary structures and displays shall be located outside of clear sight triangles at streets, alleys and driveways as per Section 2.26.080.
4. All temporary structures and displays shall be located outside of the front yard setbacks.
5. All temporary business operators shall provide a minimum of 2 off-street parking spaces not associated with any other use.
6. Each temporary business may display 1 sign to advertise the business. The sign shall be no larger than 25 square feet.

**2.26.060 Fences.**

Regulations regarding fences shall be as follows:

A. Purpose: The regulation of fences is intended to protect the public safety and welfare while maintaining the integrity of the community; providing privacy; buffering noise; and allowing adequate air, light, and vision.

B. Permit required: A building permit is required for all fences except for fences located in the Agricultural District.

C. Fences not more than 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 where it is located within 30 feet of a street

intersection, measuring along the property lines and connecting these two points by a straight line.

D. Fences not more than six feet in height may be erected on any part of a lot other than in the required front yard except for fences located in the Agricultural District which are exempt from the fence height requirements.

Exceptions:

1. On double frontage and corner lots used residentially, fences not more than six feet in height may be placed in one of the front yards provided the fence is place from the rear building line to rear property line or portion thereof.

2. The maximum fence height for golf courses, public swimming pools, school track and field areas, parks and ballparks shall be eight feet on any portion of the lot. Fences associated with these uses shall not be more than 30 percent solid.

3. The maximum fence height for public tennis courts or basketball courts shall be 12 feet and shall not be more than 30 percent solid on any portion of the lot.

4. In all commercial and industrial zoning districts, fences not more than eight feet in height may be located on any part of a lot other than the required front yard setback, except when such lot is adjacent to a residential use.

**2.26.070 Yard and building setback exceptions.**

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in Title:

A. No yard, open space or lot area required for a building or structure shall, during its life, be occupied by any other building or structure except:

1. Overhanging roofs, eaves, gutters, cornices, decks, carports or any other architectural features up to three (3) feet from the side property line;

2. Non-enclosed driveways and parking spaces, curbs, sidewalks, steps and terraces;

3. Open porches and decks may encroach ten (10) feet into the front yard setback, and sixteen (16) feet into the rear yard setback;

4. Fences, walls and hedges, subject to the regulations as set forth in this section;

5. Flagpoles and light poles;

6. Garbage disposal equipment, non-permanent;

7. Landscape features, planting boxes, mail boxes**,** and recreational equipment;

8. Parking spaces subject to the regulations set forth in Section 2.28;

9. Signs, subject to the regulations set forth in chapter 2.30;

10. Trees, shrubs, flowers and other plants subject to the sight obstruction requirements in this section;

11. Lots platted prior to adoption of this ordinance may be developed without a variance for minimum lot width at the front building line if all other requirements are met;

12. Buildings existing at the adoption of this ordinance may, without a variance, be extended along existing exterior lines so long as setback requirements in the direction of the extension are met.

13. Temporary, non-habitable buildings for uses incidental to construction work, immediately adjacent to the work and which shall be removed upon completion or abandonment of the work. Motor homes or campers are not permitted.

14. Lots having frontage on more than 1 street shall provide the required front yards along those streets.

**2.26.080 Sight Triangles**

A. Definitions.

1. Sight Triangle: The area of visibility required on a corner to allow for the safe operation of vehicles, trains, pedestrians and cyclists in the proximity of intersecting streets, rail lines, sidewalks and bicycle paths.

2. Uncontrolled Intersection: An intersection with no traffic control signs including driveways

3. Stop Controlled Intersection: An intersection with traffic control stop signs. Alleys', private roads and driveways intersections are considered as a stop-controlled intersections for the purpose of sight triangle requirements.

4. Yield Controlled Intersection: An intersection with traffic control yield signs.

5. Signalized Intersection: An intersection with traffic controlled by an automated traffic signal.

6. Pedestrian Sight Triangle: The area of visibility to allow for the safe passage of a pedestrian.

B. Restrictions.

1. No obstructions to vision shall be allowed within the applicable sight triangle(s). Any object shall be deemed as an obstruction if it is located within any applicable sight triangle and the object is between 2½ feet and 10 feet above the edge of the roadway except in C1 zoning district where the public works director may waive these requirements.

2. When more than 1 sight triangle applies to the same corner all applicable sight triangle requirements must be satisfied.

3. Setback requirements found elsewhere in this code shall not be decreased by this section.

C. Point of measurement. All distance herein shall be measured from the curb or, where there is no curb, from the end of the pavement or gravel, unless otherwise specified.

D. Uncontrolled intersections. Each uncontrolled intersection shall have a sight triangle of 70 feet on each leg except the intersection of 2 alleys may have a sight triangle of 25 feet on each leg.

E. Stop-controlled intersections. Each stop-controlled intersection shall have a sight triangle based on the speed limits of the adjoining accessways. These distances are shown in Figure 1

F. Yield-controlled intersections. Each yield-controlled intersection shall have a sight triangle of 70 feet on each leg.

G. Signalized intersections. Signalized intersections should be considered as stop-controlled for the purpose of sight triangle requirements.

H. Pedestrian sight triangle. At intersecting sidewalks or bicycle paths, and at any intersection of a sidewalk or bicycle path with a street, alley or driveway, a 10-foot pedestrian sight triangle shall be maintained. Pedestrian sight triangle legs are to be measured from the intersecting edges of sidewalks or bicycle paths, and the paved or unpaved edge of a street, alley or driveway.

Figure 1

| Operating Speed (MPH) | | 25 | 30 | 35 | 40 | 45 | 50 |
|---|---|---|---|---|---|---|---|
| Distance (ft) | Residential | 300 | 375 | 470 | 580 | 700 | 840 |
| | Commercial/ Industrial | 490 | 645 | 820 | 1020 | 1340 | 1710 |

Stop-Controlled Intersection shall be measured from 20 feet back of the intersecting street (curb line or edge of pavement) on the centerline of the drive lane to centerline of the drive lane in either direction.

Modifications to these requirements may be made base on the current standards of the American Association of State Highway and Transportation Officials (AASHTO).

**2.26.090 Height Exceptions**

The following structures or parts thereof are exempt from the height limitations set forth in the zoning districts:

A. Agricultural buildings: barn, silo, windmill, but not including dwellings;

B. Chimneys, smokestacks, penthouse, spires, flagpoles, ventilators, skylights, derricks, conveyors, and cooling towers;

C. Radio and television antennas and towers, observation towers, power transmission towers and cellular communication towers;

D. Water tanks and standpipes; and

E. Other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the districts in which they are located; provided that they are not used for human occupancy.

**2.26.100 Outdoor Lighting Requirements**

The intent of this Section is to focus on the actual physical effects of lighting, as well as the effect that lighting may have on the surrounding neighborhood. Exterior lighting shall be evaluated in the Planned Development process to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhoods. The degree to which exterior night lighting affects a property owner or neighborhood will be examined considering the light source, level of illumination, hours of illumination and need for illumination in relation to the effects of the lighting on adjacent property owners and the neighborhood.

The purpose is to create standards for outdoor light so that its use does not unreasonably interfere with the reasonable use and enjoyment of property within the jurisdiction. It is the intent of this code to encourage, through regulation of types, kinds, construction, installation, and uses of outdoor electrically powered illuminating devices, lighting practices and systems which will conserve energy without decreasing nighttime safety, utility, security, and productivity, while enhancing nighttime enjoyment of property within the incorporated areas of Summerset, South Dakota.

Intent of this section is to: 1) Eliminate glare into neighboring property or street rights-of-way; 2) Limit light trespass over a property line onto residential property; 3) Limit the maximum light level for buildings; 4) Assure that lighting standards will be complied with prior to building permit issuance; 5) Encourage community lighting practices that will promote personal safety and crime prevention.

A. Conformance with Applicable Codes:
All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this ordinance, the State Electrical Code, and the City of Summerset as applicable and under appropriate permit and inspection.

B. Applicability:
Whenever a person is required to obtain a zoning permit, electrical permit for outdoor lighting or signage, a Conditional Use Permit, subdivision approval, or development plan approval by the City including all City projects, or whenever a person requests a rezoning, the applicant shall, as part of said application, submit sufficient information to enable the Zoning Administrator to determine whether the proposed lighting will comply with this section.

1. The application shall include the following:

a. A site plan indicating the proposed location of all outdoor lighting fixtures and signs;

b. A description of each illumination device, fixture, lamp, support, and shield. This description may include, but is not limited to, manufacturer's catalog cut-sheets and drawings (including sections where required), lamp types and lumen outputs.

c. Photometric data, such as that furnished by manufacturers, or similar, showing the angle of cut-off of light emissions for the proposed luminaire (s);

d. Such other information as the Zoning Administrator may determine is necessary to ensure compliance with this ordinance.

2. If the Zoning Administrator determines that the proposed lighting does not comply with this ordinance, the permit shall not be issued or the plan approved.

C. Approved Materials and Methods of Construction or Installation/Operation:
The provisions of this ordinance are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed by this code, provided any such alternate has been approved. The building official may approve any such proposed alternate providing if found that it:

1. Provides at least approximate equivalence to the applicable specific requirements of this code;

2. Is satisfactory and complies with the intent of this ordinance; or

3. Has been designed or approved by a registered professional engineer and its content and function promotes the intent of this ordinance.

a. The maximum light level shall be no greater than three (3) foot-candles field measured at the property line (ground level) for all nonresidential/multi-family properties located adjacent to residentially used or zoned property.

b. The maximum height of light luminaire when located within 150 ft. of residentially used or zoned property shall be 25 feet above the parking surface. All other light luminaires shall have a maximum height of 30 feet above parking surface.

c. Maximum on-site lighting levels shall not exceed 10 (ten) foot-candles, except for loading and unloading platforms where the maximum lighting levels shall be 20 (twenty) foot-candles.

d. Canopy luminaires shall include a 90-degree cut-off type, or deflector, or refractor, or forward throw light fixture. The maximum number of canopy luminaires shall be determined by the following industry standard:

Canopy length (in feet) X canopy width (in feet) X 3 = Maximum No. Lamp wattage of Canopy Luminaires

e. On-site lighting, other than canopy luminaires, shall consist of well-shielded luminaires. A 90-degree cut-off type, or deflector, or refractor, or forward throw light fixture is required when luminaires are greater than 2000 lumens where located within 150 feet of residentially used or zoned property or street right-of way.

f. Submittal of photometric plans shall be required with all site plan checks for building permits with a lighted canopy, or on property with lighting parking lots.

g. Site lighting that may be confused with warning, emergency or traffic signals is prohibited.

h. The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site. Poles shall be anodized (or otherwise coated) to minimize glare from the light source.

4. Lighting Levels: With the exception of lighting for public streets and private streets, all other project lighting used to illuminate buildings, parking lots, walkways, plazas or the landscape shall be evaluated during the Planned Development process. The following table gives minimum and, for under-canopy fueling areas, maximum lighting levels for outdoor facilities used at night:

| **Table 1: Area/Activity**** | **Foot-candle** |
|---|---|
| Building surrounds (nonresidential) | 1.0 |
| Bikeways along roadside | |
| Commercial areas | 0.9 |
| Intermediate areas | 0.6 |
| Residential areas | 0.2 |
| Walkways along roadside | |
| Commercial areas | 0.9 |
| Intermediate areas | 0.6 |
| Residential areas | 0.5 |
| Park walkways | 0.5 |

| | |
|---|---|
| Pedestrian stairways | 0.3 |
| Loading and unloading platforms | 5.0 |
| Parking areas | 1.0 |
| Playgrounds | 5.0 |
| Under-canopy area (average maintained maximum) | 20.0 |
| Under-canopy area (initial installation maximum) | 26.0 |

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D. Definitions**:**

Fixture – the assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Foot-candle - a unit of measure for luminance. A unit of luminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

Full-cutoff (fco) – a light fixture which cuts off all upward transmission of light.

Glare – discomfort experienced by an observer with a direct line of sight to a light source which often results in visual impairment.

HID Lighting – high intensity discharge lighting, a family of bulb type including mercury vapor, metal halide, high pressure or low pressure sodium, which glow when an electric current is passed through a gas mixture inside the bulb.

Horizontal (or vertical) foot-candles – The amount of light striking a vertical or horizontal plane.

Inventory of Lighting – a list of lamps indicating the bulb type, bulb wattage, and manufacturer through which the rated lumens can be determined.
Light Source – the bulb and lens, diffuser, or reflective enclosure.

Light trespass – light projected onto a property from a fixture not located on that property.

Lumen – measure of brightness of the illumination exiting a bulb, provided by fixture manufacturer.

Luminaire – the complete lighting unit, including the lamp, the fixture and other parts.

Non-cutoff – a light fixture which does not cut off all upward transmission of light.

Photometric plan – a plan used for an approval process or construction indicating the number, location, type of luminaire, and manufacturer's specification data, on proposed site lighting, both pole and building mounted.

F. Shielding**:**
All non-exempt outdoor lighting fixtures shall have shielding as required by Table 2 of this ordinance.

1. "Fully Shielded" means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

2. "Partially Shielded" means outdoor light fixtures shielded or constructed so that no more than ten percent of the light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

**Table 2: Shielding Requirements**

| Fixture Lamp Type | Shielding |
|---|---|
| Low pressure sodium | Partially |
| High pressure sodium | Fully |
| Metal Halide | Fully 1, 5 |
| Fluorescent | Fully 2, 4 |
| Quartz | Fully 3 |
| Incandescent greater than 160 watts | Fully |
| Incandescent 160 watt or less | None |
| Any light source of 50 watt or less | None |
| Glass tubes filled with neon, argon, or krypton | None |
| Other Source | As approved by the Building Official |

Notes for Table 2:

1. Metal halide lighting, used primarily for display purposes, shall not be used for security lighting after 11:00 p.m. or after closing hours if before 11:00 p.m. Metal halide lamps shall be installed only in enclosed luminaries.

2. Outdoor advertising signs of type constructed of translucent materials and wholly illuminated from within do not require shielding. Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects. Unless conforming to the above dark background preference, total lamp wattage per property shall be less than 160 watts.

3. For the purposes of this ordinance, quartz lamps shall not be considered an incandescent light source.

4. Warm white and natural lamps are preferred to minimize detrimental effects.

5. For filtering requirements for metal halide fixture lamp types see Section 7.

Compliance Limit. Existing outdoor lighting shall be brought into conformance with this ordinance within 2 (two) years from the date of adoption of this ordinance.

G. Filtration:
Metal halide fixture lamp types shall be filtered. "Filtered" means any outdoor light fixtures which has a glass, acrylic, or translucent enclosure of the light source.

H. Outdoor Advertising Signs:

1. Top Mounted Fixtures Required. Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure or lighted internally. All such fixtures shall comply with the shielding requirements.

2. Prohibitions.

a. Searchlights. The operation of searchlights for advertising purposes is prohibited between 10 p.m. and sunrise the following morning.

b. Recreational Facilities. No outdoor recreational facility, public or private, shall be illuminated after 11 p.m. except to conclude a specific recreational or sporting event or any other similar activity conducted at or in the facility which was in progress under such illumination prior to 11 p.m.

3. Compliance Limit. Existing outdoor advertising structures shall be brought into conformance with this ordinance within 2 (two) years from the date of adoption of this ordinance.

4. Outdoor display lots for vehicle sales and leasing shall comply with the requirements of this ordinance. In addition, display fixture illumination shall be reduced within 30 (thirty) minutes after closing so that the remaining illumination levels are sufficient for security purposes only; provided, however, that any illumination used after 11:00 p.m. shall be reduced to levels sufficient for security purposes only.

I. Temporary Exemptions:

1. Request-Renewal-Information Required. Any person may submit a written request, on a form provided by the Zoning Administrator for a temporary exemption request. A temporary exemption shall contain the following information:

a. Specific exemption or exemptions requested;
b. Type and use of outdoor fixture involved;
c. Duration of time requested exemption;
d. Type of lamp and calculated lumens;
e. Total wattage of lamp or lamps;
f. Proposed location on premises of the outdoor light fixture(s);
g. Previous temporary exemptions, if any, and addresses of premises there under;
h. Physical size of outdoor light fixture(s) and type of shielding provided;
i. Such other data and information as may be required by the Zoning Administrator.

2. Approval; Duration. The Zoning Administrator shall have 30 (thirty) days from the date of submission of the request for temporary exemption to act, in writing, on the request. If approved, the exemption shall be valid for not more than 60 (sixty) days from the date of issuance of the approval.

3. Disapproval; Appeal. If the request for temporary exemption is disapproval, the person making the request will have the appeal rights provided in Section 2.26.100.

J. Other Exemptions:

The following structures or uses are exempt from these lighting standards: public recreation facilities, parks, pedestrian walkways, airport runways, telecommunication towers, broadcast towers, and historic period lighting.

1. Nonconformance:

a. Mercury vapor lamps shall not be used.

b. Bottom mounted outdoor advertising sign lighting shall not be used.
c. All other outdoor light fixtures lawfully installed prior to and operable on the effective date of the ordinance codified in this ordinance are exempt from all requirements of this ordinance except those regulated. There shall be no change in use or lamp type, or any replacement or structural alteration made, without conforming to all applicable requirements of this ordinance.

2. Fossil Fuel Light. All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels are exempt from all requirements of this ordinance.
3. State and Federal Facilities. Outdoor light fixtures installed on, in and in connection with those facilities on land owned or operated by the federal government or the State of South Dakota, or any department, division, agency or instrumentality thereof, are exempt from all requirements of this ordinance. Voluntary compliance with the intent of this ordinance at those facilities is encouraged.

**2.26.110 Wind energy conversion systems.**

A. General. Any wind energy conversion system shall be located on parcel that has a minimum lot size of three (3) acres. Wind energy conversion systems shall be allowed as accessory structures as conditional uses in certain zoning districts. In addition to the standards set forth in Chapter 2.36 regarding all conditional use, all wind energy conversion systems shall also meet all the following requirements.

B. Commercial sale of power prohibited. Any wind energy conversion system shall be used only for the purpose of generating power for the property on which the wind energy conversion system is located, or for the purpose of transmitting power to the electrical grid of an electric utility company through an approved interconnection.

C. Utility interconnections. Any wind energy conversion system shall be constructed and operated, and any interconnection between a wind energy conversion system and an electric utility company shall be allowed only in accordance with all local, state, and federal regulations including regulations issued by the Public Utilities Commission and the Federal Aviation Administration. Additionally, electrical interconnections shall be allowed only in accordance with the applicable standards of the electric utility company.

D. Required setbacks. A minimum setback of one and one-half times the height of the wind energy conversion system shall be maintained between the wind energy conversion system and any property line, structure intended for human occupation, overhead utility line, or other tower support base.

E. Tower height. In no event shall the height of a wind energy conversion system exceed 90 feet as measured from the ground to the rotor hub. Further, there shall be no less than 30 feet between the lowest arc of the rotors of a wind energy conversion system and the ground, any portion of a structure or any tree.

F. Rotor size/operation. The maximum size of the rotors of a wind energy conversion system shall be reviewed upon application for a conditional use. In determining the appropriate size for

the rotors, the city shall consider such factors as noise, proximity to surrounding residences, safety and aesthetic issues. All systems shall be equipped with appropriate braking devices or similar protective devices to slow down or stop the rotors if the wind exceeds the capacity of the system.

G. Noise. No wind energy conversion system shall produce more than 60 decibels of sound measured at the closest point on the closest property line from the base of the system. Information from the manufacturer of the wind energy conversion system shall be submitted at the time of the submittal of the conditional use, ensuring that this requirement can be met once the system is operational.

H. Electromagnetic interference. No wind energy conversion system shall produce electromagnetic interference so as to disrupt transmissions such as those from radio, television or microwave towers. At the time of application for the conditional use, the petitioner must submit information from the manufacturer indicating that, once operational, the wind energy conversion system will not adversely affect the transmissions. If necessary, generators and alternators shall be filtered, shielded, or both so as to prevent the emission of radio and television signals.

I. Tower access. Appropriate safety measures must be undertaken to discourage unauthorized climbing of a wind energy conversion system tower. Appropriate measures shall include either:

1. The construction of a 6-foot tall chain link fence with locking gate around the tower;
2. The tower shall be constructed so that the lowest climbing access shall be at least 12 feet above the ground; or
3. A locked anti-climb device shall be installed on the tower.

J. Warning information. Information related to the maximum power output, nominal voltage and maximum current, and emergency shut-down procedures for the wind energy conversion system shall be posted near the base of the tower in a visible location.

K. Lighting. Unless required by a more restrictive regulation, no lighting shall be installed on a wind energy conversion system.

L. Tower design. In reviewing the conditional use for a wind energy conversion system, the city shall consider the design and color of the tower to ensure that no significant adverse impacts are occurring to neighboring property owners, including, but not limited to, infringement into natural and urban viewsheds, historic property, major community entryways, parks, schools, churches, playgrounds, or similar public and recreational uses.

M. Manufacturer warranty/maintenance information. Upon application for a conditional use for a wind energy conversion system, the petitioner shall submit a manufacturer's statement documenting that the system has been successfully and safely operated in atmospheric conditions that are similar to conditions in City of Summerset. Further, the petitioner shall provide a copy of the manufacturer's warranty indicating that the system is warranted against any system failures reasonably expected during severe weather conditions. Further, the petitioner shall submit system specifications including maximum power output and a maintenance schedule for the system.

N. Construction standards. Any wind energy conversion system shall be constructed in accordance with all applicable life, safety, building and fire codes including but not limited to the following:

1. An applicant for a building permit for a wind energy conversion system shall submit plans and specifications stamped by a registered engineer.

2. Lightning Protection. Any wind energy conversion system shall have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system shall effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters and deep earth grounding.

O. Abandonment/removal.

l. Any wind energy conversion system which has not been used for a period of 6 months or more shall be declared abandoned. Upon abandonment of the system, the city shall revoke the conditional use and the system shall be removed at the expense of the property owner. The city shall determine that a wind energy conversion system has not been used if the following criteria apply:

a. The wind energy conversion system has not been operating for a substantial period of time and the owner of the system is unable to provide documentation demonstrating that the system has produced a minimum of 25% of the power output as stated in the system specifications over the past 6 months;

b. The wind energy conversion system has fallen into obvious disrepair and/or has been condemned by the City of Summerset.

c. The wind energy conversion system has become violative of some other local, state or federal law and the owner of the system has not taken appropriate actions to remedy the problem.

2. If deemed appropriate, the city may stipulate through the conditional use that the wind energy conversion system shall be removed at the owner's expense, upon the rezoning of the subject property to a zoning district classification in which wind energy conversion systems are not allowed as either a permitted use or conditional use.

**2.26.120 Development Standards for Certain Conditional Uses**

In order to accomplish the general purpose of this ordinance, it is necessary to give special consideration to certain uses because they are unique in nature, require large land areas, are potentially incompatible with existing development.

A. Manufacture Home Park/Subdivisions.

The following development standards shall apply for all manufactured home parks, which shall be approved as a Development Permitted on Review.

1. Minimum Area of Manufactured Home Park: No park shall be allowed to open on less than ten (10) acres.

2. Only manufactured homes shall be permitted, except for additions and accessory structures which may be constructed on-site.

3. Minimum Lot Size: 5,000 sq. ft., exclusive of public street rights-of-way and private street easements.

4. Street Standards:

a. Public streets shall meet minimum standards of the subdivision ordinance or, in the case of private streets, standards established by the City Commission in the approval process.

b. Cul-de-sac roads shall have a maximum length of five hundred (500) feet and a minimum turnaround of forty (40) foot radius.

c. Be accessible at all times to fire department, ambulance, police, sanitation and utility vehicles.

5. Street Lighting: The developer shall furnish and install street lights in accordance with City standards. On private streets, lights shall be operated and maintained by the developer.

6. Fencing and Screening: The developer shall install screening, opaque fencing or plantings on the front, side and rear perimeters of the manufactured home park, according to site plans approved by the Planning and Zoning Commission.

7. Shade Trees: The developer shall plant shade trees on the property. One tree with a minimum trunk diameter of not less than one (1) inch, shall be planted on each manufactured home lot. Trees shall be of varieties recommended by the City Parks & Recreation Department.

8. Drainage and storm sewers: As regulated by Code of Ordinances, City of Summerset.

9. Water/Sewer facilities: As regulated by Code of Ordinances, City of Summerset.

10. Utilities: As regulated by Code of Ordinances, City of Summerset.

11. Recreation areas: A park and recreation area shall be provided having a minimum of one hundred fifty (150) square feet for each manufactured home site, consolidated into usable space. This requirement may be waived by the Planning and Zoning Commission if the manufactured home park has minimum lot sizes of six thousand (6,000) square feet.

12. Accessory buildings: Accessory buildings shall meet minimum setbacks in accordance with 15.d.

13. Lot width: Minimum sixty (60) feet.

14. Perimeter setbacks:

a. Twenty-five (25) foot perimeter setback from all public rights-of-way.

b. Any perimeter yard abutting a residential district shall maintain a fifteen foot setback.

c. All perimeter setbacks shall be maintained and landscape;

15. Lot setbacks:

a. Front yard – Fifteen (15) feet from all road rights-of-way within the manufactured home park.

b. Rear yard – Ten (10) feet.

c. Side yard – Eight (8) feet.

d. Accessory structures – Five (5) feet, side and rear

16. Off-street parking: There shall be a minimum of two paved, off-street parking spaces on each manufactured home lot, which shall be located in the side yard.

17. Storage space: The manufactured home park shall provide a paved storage area for boats, campers, RV's, etc., for use only by tenants. The number of spaces within this area shall be equal to one space for every five (5) manufactured homes sites. Each space shall be ten (10) feet by twenty (20) feet.

18. Securing and skirting: All manufactured homes and accessory structures shall be securely anchored to the ground, at intervals approved by the Building Official. Manufactured homes, once in their permanent location upon the lot, shall be fully skirted prior to occupancy.

19. Additions to manufactured homes: Building permits shall be required for all additions, which shall meet all setback requirements. No additions or structures erected shall

have a height greater than the height of the manufactured home to which it is attached; and shall be supported by a foundation approved by the Building Official.

20. Signs:

a. The developer shall install, in accordance with standards of the City, all road and street name signs.

b. Each manufactured home park shall be permitted to display, on each frontage, one (1) identifying sign of maximum size of twenty-five (25) square feet.

21. Guarantees to include improvements: Guarantees may be required in an amount determined by the Planning and Zoning Commission and approved by the City Commission, to assure completion of all requirements within this section.

22. General provisions:

a. Sidewalks from the paved driveway to the main entry of the manufactured home shall be a minimum of forty-eight (48) inches in width.

b. Each manufactured home shall have an address of three-inch high letters mounted on the side fronting the street.

c. Each manufactured home space shall be clearly defined by permanent markers.

d. Each manufactured home space shall be serviced by the public water and sewer system. Manufactured homes that cannot be connected to the public water and sewer system shall not be permitted.

e. Manufactured homes shall not be used for commercial, industrial or other non-residential uses.

23. Application Requirements: The application shall be accompanied by (3) copies of the plot plan drawn to scale, and prepared by a licensed engineer or architect. The following information shall be shown:

a. The location and legal description of the proposed manufactured home park.

b. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the manufactured home park.

c. The proposed use of buildings shown on the site.

d. The location and size of all manufactured home spaces.

e. The location of all points of ingress and egress and internal traffic circulation pattern.

f. A landscaping plan.

g. The location of all lighting standards to be provided.

h. The location of all walls and fences, the indication of their height, and the materials of their construction.

i. The name and address of the applicant.

j. Such other architectural and engineering data as may be required to permit the Zoning Administrator and City Commission to determine if the provisions of this ordinance are being complied with.

k. An estimated time table for project development.

B. Campgrounds, Recreation Vehicle Park, and Travel Parks Standards

Campgrounds may be established in specific districts with the following standards.

1. All campground, recreational vehicle park or travel park shall have an area of not less than forty-five thousand (45,000) square feet.

2. All camping units/spaces, cabins, and/or service structures shall be setback from all property lines a minimum of twenty-five (25) feet.

3. All campground, recreational vehicle park or travel park shall provide the following minimum facilities:

a. Each recreational vehicle space shall include one (1) water connection. For every three (3) tent spaces or sleeping cabins, one (1) water connection shall be provided. All water installations shall conform to the state plumbing code and current building codes adopted by the city.

b. A minimum of twenty-five percent (25%) of the all recreational vehicle spaces shall be provided with sewer hookups. Such sewer hookups shall be installed pursuant to the requirements of the state plumbing code and the current building codes as adopted by the city.

c. One refuse container of approximately ninety (90) gallons in size shall be provided for every ten (10) spaces.

d. Toilet and bathing facilities shall be provided per state requirements.

4. Campground density requirements: There shall be not less than 1,500 square feet of lot area for each space provided in the travel park; provided, however, that, maximum density shall not exceed 20 spaces per acre within the travel park.

5. Every space shall be clearly marked to facilitate location by emergency vehicles.

6. All internal streets shall be paved with asphalt or portland cement concrete and no parking shall be allowed on any internal street. Each space shall have two (2) off-street parking spaces. One space may be for the recreational vehicle. In case of a trailer camper, the pull vehicle shall be counted as part of the recreational vehicle.

7. The applicant shall provide a documentation of compliance with all state and local regulations relating to health, plumbing, and electrical standards. Prior to issuance of a certificate of occupancy, the applicant shall provide a copy of the all final inspections reports and/or licenses from the department of health, and plumbing and electrical commissions.

## CHAPTER 2.28. PARKING, LOADING AND STACKING REQUIREMENTS.

### 2.28.010 Purpose

No land shall be used or occupied; no structure shall be erected, altered, used or occupied, and no use shall be operated unless off-street parking facilities, in at least the amount required, are provided or available, and maintained in the manner set forth. Uses existing on the effective date of this ordinance shall not be reduced below the requirements of this section. Off-street parking facilities shall be provided and maintained as required in this section for any addition to or the extension or enlargement of a use of land or building which existed on the effective date of this ordinance. The provisions and maintenance of the off-street parking facilities required shall be the joint and several responsibility of the operator and owner of the use and the operator or owner of the land on which, or the structure in which is located.

### 2.28.020 Minimum Requirements:

A. Standards:

1. Each off-street parking space shall be an area of not less than (171) square feet, exclusive of access or maneuvering area, ramps, and other appurtenances as per the following standards: (for illustration, see (Appendix 2.)

| ***REQUIRED MINIMUM OFF-STREET PARKING DIMENSIONS*** | | | | |
|---|---|---|---|---|
| ***Parking Angle (Degrees)*** | Stall Length | Stall Width | Aisle Width (1-Way) | Aisle Width (2-way) |
| 90º | 19' | 9’ | 25' | 25' |
| 60º | 19' | 9’ | 18.5' | 20' |
| 45º | 19' | 9’ | 13.5' | 20' |
| 30º | 19’ | 9’ | 12” | 20’ |
| 0º (parallel) | 21' | 9’ | 12' | 20' |

2. Off-street parking facilities shall be located on the site on which the use or structure for which they are provided is located except as otherwise permitted under a special plan for location or sharing of facilities.

B. Maintenance: Off-street parking facilities shall be constructed, maintained and operated in accordance with the following specifications:

1. Drainage and Surfacing: They shall be properly graded for drainage, surfaced with concrete or asphalt and maintained in good condition, free of weeds, dust, trash and debris;
2. Protective Barriers: They shall be provided with barriers of such dimensions those occupants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles;
3. Outdoor Lighting: When provided, outdoor light shall comply with Section 2.26.100.
4. Entrances and Exits: They shall be provided with designated entrances and exits so located as to minimize traffic congestion;

5. Prohibition of Other Uses: They shall not be used for the sale, storage, repair, or dismantling of any vehicles, equipment, materials or supplies.
6. In the event they are designed such that the facility abuts a public sidewalk and vehicle parking is diagonal or perpendicular to the sidewalk, a permanent barrier shall be installed (3) feet from the interior edge of the sidewalk to prevent vehicle encroachment over the sidewalk. If the facility abuts and faces a street and there is no sidewalk, permanent barriers shall be installed (7) feet from the curb to provide for a pedestrian way and to prevent vehicle encroachment.
7. All parking facilities shall comply with Section 2.26.080.
8. In residential districts, parking spaces accessed by local roads and required by this ordinance shall be located and designed with a minimum of (23) feet or sufficient depth from the back of the sidewalk so that there will be no vehicle encroachment over the public sidewalk.
9. If a parking facility accesses a collector street, major arterial or minor arterial as designated by the Major Street Plan map that functionally classifies streets in the City, or if by reasons of topography as determined by the Planning and Zoning Commission, the facility shall have a controlled access with a designated entrance and exit, and sufficient maneuvering space on the interior of the lot to preclude the necessity of vehicles backing onto the street.

C. Minimum Amounts of Off-Street Parking Facilities Required: The following minimum amounts of off-street parking facilities shall be provided. The classification of uses shall be deemed to include and apply to all uses, and if the classification is not readily determinable, it shall be fixed by the Zoning Administrator.

**TABLE OF PARKING SPACES REQUIRED[a]**
**(SFGFA-Square Feet Gross Floor Area)[b]**

| ***Land Use Building Type*** | ***Parking Spaces Required*** |
|---|---|
| Dwellings, One-Family and Two-Family: | (2) spaces per dwelling unit |
| Dwellings, Multi-Family | (2.25) spaces per dwelling unit |
| Group Care Homes/Assisted Living and Congregate Care Facilities | 0.50 per bedroom or suite |
| Hotels, Motels, Rooming Houses, Bed and Breakfast Establishments | (1) space per guest room. |
| Manufactured Home Parks | (2) spaces per manufactured home. |
| Nursing, Long-term Care Facilities | (1) space per (4) beds. |
| Theaters, Auditoriums, Gymnasiums | (1) space per (3) seats or 18" of linear bench |
| Convention Facilities, Assembly or Banquet Hall | (1) space per 15 square feet of assembly area |

| | |
|---|---|
| Place of Worship | (1) space per (4) seats or 24" of linear bench |
| Funeral Homes | One space per 600 SFGFA |
| Schools, Elementary | (2) spaces per classroom |
| Schools, Secondary | (10) spaces per classroom |
| Restaurants, On-sale Liquor Establishments | (1) space per (100) SFGFA plus 5 per drive-through lane[c] |
| Private & Public Utility Substations | No parking requirements except that all areas of ingress/egress and loading/unloading/storage shall be hard surfaced. |
| Commercial Storage or Ministorage Units | 30 feet of circulation aisle width immediately adjacent to area of building(s). |
| Medical Clinic/Office | 1 per 250 SFGFA |
| Industrial and Manufacturing Establishments | (1) space per (400) SFGFA |
| Warehouses | (1) parking space per (1,000) SFGFA |
| Offices, Commercial and Personal Service Establishments: | (1) space per (200) |
| Retail Trade | (1) space per (300) SFGFA |
| Drive-up Windows | 3 per drive through lane[c] |
| Sports & Recreation Facilities: | |
| Bowling Alley | (4) spaces per lane |
| Golf Course | (6) spaces per hole |
| Baseball/Softball/Soccer | (36) spaces per field. |
| Tennis Court | (4) spaces per court |
| Miniature Golf | 2 per hole |
| Recreation Center/Swimming Pool/Water Park: | 1 per 250 SFGFA |
| Roller/Ice Skating Rink | 1 per 250 SFGFA |
| Sports Club/Health Spa | 1 per 250 SFGFA |
| Fire /Ambulance Facilities | (4) spaces per bay |

| | |
|---|---|
| New & Used Vehicle and Equipment Sales: | 1 per 600 SFGFA[d] and all areas used for storage and display shall be paved |
| Auto Repair, Auto Towing, Body Repair and Painting | 1 per 250 SFGFA[e] |
| Day Care Center | 1 per full-time equivalent staff plus .1 per child licensed |
| Furniture, appliance or home improvement products (i.e., carpet, paint, wallpaper, etc) | 1 per 600 SFGFA |
| Hardware Store/Home Center/Lumberyard | 1 per 600 SFGFA |
| Hospital | 2 per bed |
| Shopping Center/Strip Center – Buildings designed for 3 or more tenants | 1 per 200 SFGFA[f] |
| All nonresidential buildings, except those specified above | 1 per 300 SFGFA |
| NOTES TO TABLE:<br>[a]–Numbers include spaces required for employee and staff parking.<br>[b]– Square footage shall be the total square footage of the combined usable floors as measured by outside building dimensions.<br>[c]– Stacking in drive-through lanes shall count as 1 space per 23 linear feet of striped stacking lane.<br>[d]– Parking spaces used for customer and employee parking exclusive of automobile display area.<br>[e]– Automotive repair business indoor and outdoor vehicle storage or repair areas that are not accessible to the public are exempt from the aisle width and access requirements of this chapter. Proposed vehicle storage or repair areas must be designated on the site plan and building floor plan and shall be completely screened from the public.<br>[f]–No more than 1/3 of the units shall be a On-Sale Liquor Establishment or Restaurant. If more than 1/3 of the units are either a On-Sale Liquor Establishment or Restaurant, parking shall be each individual use). | |

D. Combined Facilities: The off-street parking facilities required of (2) or more uses located on the same building site or an immediate proximity may be combined and used jointly, provided that the facilities shall provide the sum total of the facilities required.

E. Maximum Amounts of Off-Street Parking Facilities: For commercial uses, excluding new and used vehicle sales, minimum amounts of off-street parking facilities may be exceeded by only 20%. Parking in excess of this maximum may be approved by the Common Council upon justification of need.

F. Special Plan for Location or Sharing of Facilities: Off street parking facilities may be located on another site or shared under the following procedure:

1. Application for Approval of Special Plan: An application for approval of a special plan shall be filed with the Planning and Zoning Commission by the owner(s) of the entire land area to be included within the special plan. It shall include the owner(s) of all structures existing on the land and all encumbrances of the land and structures. The application shall contain such information required by this Ordinance or deemed necessary by the Zoning Administrator and shall include plans showing the location of the uses or structures for which off-street parking facilities are required and the location of the proposed off-street parking.

2. Review of Application: Applications shall be reviewed by the Planning and Zoning Board and either approved or disapproved by the City Commission within (90) days of the date of the receipt of the application, except that the applicant may request a continuance.

3. Recording of Special Plan: A copy of the plan shall be recorded as a restrictive covenant against the property.

4. Amendment or Withdrawal of Special Plan: A plan may only be amended or withdrawn pursuant to the same procedure as for approval.

G. Parking for persons with disabilities: It is the responsibility of the owner to follow all provision of the American with Disabilities Act. The following are basic requirements for accessible spaces and are not a complete reiteration of the American with Disabilities Act.

1. The following number of off-street parking spaces, based on the total required parking, are to be reserved for exclusive use by persons with disabilities. One in every 8 accessible spaces but always at least 1 space must be van accessible. Parking spaces for persons with disabilities may be counted toward the total number of parking spaces required for the use.

| Required Number of Accessible Spaces | |
|---|---|
| Total Parking in Lot | Required Minimum # of Accessible Spaces |
| 1 to 25 | 1 |
| 26 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| 201 to 300 | 7 |
| 301 to 400 | 8 |
| 401 to 500 | 9 |
| 501 to 1,000 | 2% of total spaces |
| 1,001 and over | 20 plus 1 for each 100 over |

| | |
|---|---|
| | 1,000 |
| Notes:<br>1. The required number of accessible spaces for out-patient medical facilities shall be 10% of the total number of parking spaces.<br>2. The required number of accessible spaces for facilities that specialize in treatment or services for persons with mobility impairments shall be 20% of the total number of parking spaces. | |

2. Accessible parking spaces. Accessible parking spaces must be a minimum of 96 inches in width. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle. Access aisles adjacent to accessible spaces shall be a minimum of 60 inches in width. Van accessible spaces shall be a minimum of 96 inches wide and shall be served by an access aisle a minimum of 96 inches wide. All accessible parking spaces shall be a minimum of 20 feet in length.

3. Universal parking. An alternative to the provision of separate van accessible spaces is the provision of universal parking. Universal parking spaces shall be 132 inches wide with a 60-inch wide access aisle.

**2.28.030 Off-Street Loading and Unloading Requirements.**

In all districts, and on the same premises with every structure involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided adequate space for standing, loading and unloading in order to avoid undue interference with public use of the streets or alleys.

Off-street loading and unloading spaces shall be provided as follows:

A. One off-street loading and unloading space shall be provided for buildings up to and including (20,000) square feet of floor area, plus one additional off-street loading and unloading space for each additional (20,000) square feet of floor area up to and including (100,000) square feet.

B. There shall be provided an additional off-street loading and unloading space for each additional (40,000) square feet of floor area in excess of over (100,000) square feet.

C. Where trailer trucks are involved, such loading and unloading space shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.

D. All areas devoted to permanent off-street loading and unloading as required under this section shall be of asphalt or concrete construction.

**2.28.040 Storage and Parking of Trailers, Recreational Vehicles and Commercial Vehicles.**

A. Definitions

1. Recreational Vehicle

Any vehicle that is equipped for sleeping is considered a recreational vehicle including but not limited to any motor home, travel trailer, fifth wheel trailer, camper not mounted on a truck, or any other vehicle or object, which the officer deems to be a large

recreational vehicle. This includes but not limited to boats, snowmobiles, jet skis (or trailers to carry them). It also includes but is not limited to small utility trailers, camper van conversions, tent trailers or campers mounted in trucks.

B. Commercial vehicles may be parked on the driveway of a residence provided that the vehicle is parked 5 feet back from the interior edge of the sidewalk or 5 feet back from the curb if there is no sidewalk, and must follow section 2.28.020.B.1 for parking surface. Commercial vehicles loaded with live animals, or any hazardous material as defined by U.S. Department of Transportation regulations will not be permitted.

C. Trailers or recreational vehicles on roadways or on public places cannot be occupied on a regular basis with respect to using them as a temporary dwelling.
**(Section 2.28.040 D Repealed June 16, 2011 by Ordinance 2.01A effective July 13, 2011)**

E. Seasonal Distinction

1. May 1 and September 30 - A recreational vehicle may be parked on the driveway of a residence provided that the vehicle is parked 5 feet back from the interior edge of the sidewalk or 5 feet back from the curb if there is no sidewalk, and must follow section 2.28.020.B.1 for parking surface.

2. October 1 to April 30 - Parking will be permitted for seventy-two (72) hours in any seven (7) day period on the driveway of a residence provided that the vehicle is parked 5 feet back from the interior edge of the sidewalk or 5 feet back from the curb if there is no sidewalk, and must follow section 2.28.020.B.1 for parking surface.

3. All seasonal parking shall conform to City of Summerset Snow Removal Ordinance.

F. Penalties and Enforcement
In addition to any and all remedies allowed under the laws of the State of South Dakota and this ordinance, a violation of any requirement of this ordinance shall also be subject to the penalties as outlined in Chapter 2.42.

## CHAPTER 2.30 SIGN REGULATIONS.

### 2.30.010 Authority.

The City of Summerset's authority to regulate signs, billboards and other advertising structures is specified in South Dakota Codified Law Ch. 31-29.

### 2.30.020 Intent.

The purpose of this Section shall be to establish effective local regulation of outdoor advertising so as to promote the health, safety, and general welfare of those persons using and residing adjacent to public right-of-ways. The following regulations are intended to promote and preserve the natural aesthetics of The City of Summerset while providing for the convenience of the traveling public, for the promotion of locally available facilities, goods, and services, and to minimize negative impacts on property adjacent to public right-of-ways. It is, therefore, the intent of these regulations to achieve the following:

A. Safety. To promote the safety of persons and property by requiring that signs:

1. Do not create a hazard due to collapse, fire, collision, decay or abandonment;
2. Do not create traffic hazards by distracting or confusing motorists, impairing a driver's ability to see pedestrians, obstacles, or other vehicles or to see and interpret any official traffic sign, signal or device.

B. Communication. To promote the efficient transfer of information by providing that:

1. Business and services may identify themselves;
2. Customers and other persons may locate a business or service;
3. No business, service, person or group is arbitrarily denied the use of sight lines on a public right-of-way for communication purposes.

C. Preservation of the natural landscape. To protect the public welfare and to maintain and enhance the appearance and economic value of the landscape by providing that signs:

1. Do not create a nuisance to persons using the public right-of-way;
2. Do not constitute a nuisance to the occupancy or use of adjacent property as a result of their size, height, brightness or movement;
3. Are constructed and installed in a manner which is in harmony with buildings, neighborhoods or other signs in the area.

### 2.30.030 Compliance and applicability.

In any zoning district where signs are allowed, a City of Summerset Sign Permit shall be required unless otherwise stated. In addition to all applicable state and federal regulations, any sign erected within the City of Summerset shall be required to conform to the following regulations:

A. To require a permit for certain types of signs subject to the standards and procedures of this division;

B. To allow certain signs that are small, unobtrusive and incidental to the principal use of the parcel on which they are located, subject to the requirements of this chapter but without a requirement for a permit;

C. To provide for temporary signs in limited circumstances, and

D. To prohibit all signs not expressly permitted by this chapter.

**2.30.040 Definitions**

"Abandoned sign" means a sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of ninety (90) days. The ninety (90) day period for determining if a sign is abandoned commences upon notification of violation to the offender.

"Back-to-back sign" means an off-premise or on-premise sign consisting of two sign facings oriented in the opposite direction with not more than one face per side.

"Banner sign" means an on-premise sign which is 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. For the purpose of this Chapter, a banner sign can only be used as a wall sign.

"Directional sign" means a sign erected for the convenience of the public, such as directing traffic movement, parking or identifying restrooms, public telephones, walkways and other similar features or facilities and bearing no advertising in the message.

"Double faced sign" means an off-premise or on-premise sign with two adjacent faces oriented in the same direction and not more than 10-feet apart at the nearest point between the two faces.

"Sign Facing" means that portion of a sign structure upon which advertising is affixed or painted and visible in one direction at one time.

"Freestanding Sign" means a sign on a frame, pole, or other support structure not attached to any building.

"Highway" means every way or place of whatever nature open to the public, as a matter of right, for purposes of vehicular travel, is a highway. The term "highway" shall also include private access easements and roadways.

"Off-premise sign" means a sign/billboard that advertises goods or services not available at the location of the billboard or advertising sign.

"On-premise sign" means a sign identifying an establishment's activities, products or services conducted or available on the property upon which it is located and signs advertising the sale or lease of the property upon which they are located.

"Signs" mean any sign defined in this ordinance which displays or conveys any identification, description, illustration, or device illuminated or non-illuminated, which directs attention to a product, service, business activity, institution, business or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, pennant or placard designed to advertise, identify or convey information, with the exception of window displays.

"Sign structure" means the sign face and support members that are permanently affixed to the ground or attached to a structure. Sign structure does not include the sign frame.

"Sign Area" means the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, but excluding any structural or supporting elements such as upright, aprons, poles, beams or standards. In the case of lettering on an awning or other undefined structure or space, a perimeter shall be determined by adding (2) inches around the whole of the lettering, using unbroken parallel lines. Logos shall not be included in square footage, but must be subordinate to the sign. A logo that consists only of words with or without a symbol shall be included in the sign square footage**.** Logos attached to walls shall not exceed (20) square feet.

"Sign types" Sign types are canopy, ground/pole, projecting wall, roof, wall, and wall/roof. Sign type pertains to the location of a sign on a property or structure, and the method of support or attachment.

A. Canopy sign. Includes awnings and marquees. An overhead covering projecting from and attached to a building, and the attachments thereto.

B. Ground/Pole sign. A sign that is structurally self-supporting and not attached to any other structure.

C. Projection wall sign. A sign attached to and supported by a building, projecting more than 12 inches from the wall to which it is attached. A projecting wall sign shall not extend above the roofline.

D. Roof sign. A sign attached to roof of a building

E. Wall sign. A sign affixed to an exterior wall of a building and which projects 12 or fewer inches from the wall.

F. Wall/roof sign. A projecting wall sign which projects above the roofline of a building and which is wholly supported by the building.

"Sign Use" refers to the way in which a sign is used based on the function of the sign and/or its relationship to the property on which it is located.

A. Area identification sign. A sign erected to identify a group of five or more commercial or industrial activities located either within a single structure by identifying the structure or the area. The structure or area must be identifiable as a unit through common ownership or management of the building, utilities and/or common facilities (i.e., parking, open space, mall, etc.).

B. Business sign. An on-premise sign or signs used to identify a commercial or industrial activity.

C. Construction sign. A temporary sign erected to identify the contractors, designers and/or financial institutions involved in a major construction project.

D. Home occupation sign. A sign erected to identify a home occupation

E. Institutional sign. A sign erected to identify an institutional activity.

F. Residential identification sign. A sign that is showing the address and/or name of the occupant(s) of a residential building.

G. Residential development sign. A sign identifying an unique development or apartment complex being actively developed as evidenced by buildings under construction or constructed, and/or streets opened.

"Specialty Signs" Specialty signs possess unique characteristics that require special treatment or control. The following are included in the kinds of specialty signs:

A. Painted wall sign. An on-premise sign painted directly upon a wall or similar structure.

B. Parasitic sign. A sign affixed to a permanent supporting structure that is in addition to signs specifically designed for said supporting structure.

C. Temporary/Portable sign. A sign not affixed to a permanent supporting structure but which is designed to be moved from location to location.

D. Mural: A pictorial representation not identifying goods or services offered by a business.

E. Changeable copy sign/reader board: A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face of the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this chapter. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this chapter.

F. Animated sign: Any sign that uses movement, electric message or change of lighting, either natural or artificial, to depict action or create a special effect or scene.

G. Pennant/banner sign: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a pole or lighting standard, usually in series, that promotes the community or a community event.

**2.30.050 Exemptions**

The following signs shall be exempt from regulation under this chapter.

A. Exemptions:

1. Changing the sign face or the copy or message on signs specifically designed for the use of replaceable copy.

2. Painting, repainting, cleaning or minor maintenance of a sign provided no structural alteration is made.

3. Window signs, real estate signs and like signs of a temporary nature.

B. Exempted Signs:

1. Governmental regulatory, directional, information and warning signs; governmental agency flags, emblems and insignia; and temporary signs placed for the purpose of public safety.

2. Commemorative plaques placed by recognized historical agencies and commissions.

3. Signs which can be viewed only from within the confines of a structure or other clearly defined space.

4. Instructional or identification signs less than (2) square feet, such as parking information.

5. Political election signs, not exceeding (6) square feet and removed within one week after the election.

C. Prohibited Signs:

All signs not expressly permitted under this chapter are prohibited in the city. The following signs shall not be permitted, erected or maintained in any district, notwithstanding anything else

contained in this chapter. Signs in section shall be removed or brought into conformity with the provisions of this chapter within thirty (30) days after receiving written notice from the City. Such signs include, but are not limited:

1. Signs attached or applied to trees, utility poles, vending machines, boxes, benches and other unapproved supporting structures.

2. Signs encroaching on a public right-of-way or extending beyond a property line unless specifically authorized.

3. Illuminated signs containing flashing, intermitting or moving light, that interfere with the traveled way of streets or obscure traffic signs or devices.

4. Wall or protruding signs that project above the wall upon which they are attached.

5. Signs that constitute pedestrian or vehicular traffic hazards or which could be confused with any governmental regulatory, directional or warning sign.

6. Moving signs.

7. Off-premise advertising signs painted on building structures.

8. Tethered, airborne devices advertising a business, product or service.

9. Signs not complying with Section 2.30.060.

10. Searchlights, pennants, spinners, and streamers except for occasions such as grand openings. Use shall be limited to a fifteen (15) day period.

11. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs.

12. Flags displaying an advertising message, except flags of any nation, state, political subdivision or corporate flag.

**2.30.060 New Signs**

A Sign Permit shall be required for any new on-premise or off-premise sign installation, including temporary signs. At the time of installation, the new sign must conform to all requirements of this Chapter at the time of installation.

A. General Provisions:

1. All signs shall be placed or erected in conformity with all applicable side and rear yard setback requirements for structures. The minimum front yard setback requirement for signs shall be five (5) feet from any property line.

2. No sign, including political signs are allowed to be located in any public right-of-way, public or private access easement. All signs issued by the City of Summerset for public notice of proposed land use changes are exempt from this requirement.

3. There shall be a 250-foot separation between a new ground/pole on- premise sign and an existing ground/pole on-premise sign.

4. All sign structures shall be painted and maintained in muted colors as to blend into the natural surroundings. Colors shall include, but not be limited to, brown, black, or tan. Wood sign structure may remain unpainted and allowed to have a natural patina. At no time shall bright or neon colors be used for either wood or metal sign structures.

5. No debris, including but not necessarily limited to, wood material, posts, metal, paper, plastic, cardboard or other materials from the construction or maintenance of a sign shall be left at the location or vicinity of a sign. Any violation of this section is hereby declared a nuisance and subject to abatement.

6. No sign shall be constructed which resembles any official marker erected by a governmental entity or which by reason of position, shape or color would conflict with the proper functioning of any official traffic control device, sign or marker.

7. No sign shall exceed two (2) sides. Signs shall have no more than one frontal face (front) and one back face (back) as viewed from one static position.

8. Design and Construction: Sign and sign structure design shall be reviewed and inspected by the Building Official for compliance with the following:

1. Building Code, as adopted.
2. Electric Code, as adopted.

B. Off-Premise Sign Requirements:

All off-premise sign shall require a conditional use permit and shall meet all the provisions of Chapter 2.36. In addition, due consideration shall be given to the relationship between the sign(s) and the natural horizon/view shed in the area of the proposed sign location. In addition to the general provisions of this chapter, the following regulations shall apply to all off-premise signs:

1. No off-premise sign shall be erected or placed closer than 500 feet from any residential district and/or dwelling unit

2. Off-premise signs shall be located no closer than 1500 feet from all other off-premise signs.

3. No illuminated sign shall be permitted within 1500-feet of any dwelling unit or residential district without an approved Conditional Use Permit. All illuminated signs shall be installed and maintained in accordance with Section 2.26.100 so as to minimize spillage of light outside of the sign face.

4. Off-premise signs shall not exceed a height of 40-feet. Height shall be measured from grade level directly below the face of the sign to the highest part of the sign.

5 The maximum display area of any off-premise sign located adjacent to a two or more lane street or highway shall not exceed 250 square feet on each face. The maximum display area of any off-premise sign located on the interstate shall not exceed 400 square feet on each face.

6. All off-premise signs shall be placed or erected in conformity with all applicable side and rear yard setback requirements for structures. The minimum front yard setback requirement for on-premise or off-premise signs shall be five (5) feet from any property line.

7. A vehicle or trailer of any form or type, whether licensed or not or in working condition or not, intended to be used as or in conjunction with an on-premise or off-premise sign, shall not be located adjacent to any public right-of-way or on private or public property so as to be visible from the public right-of-way. Vehicles or trailers whose primary use is other than outdoor advertising shall be exempt from this section.

C. On-Premise Sign Requirements:

1. Number of signs per premise. Notwithstanding anything else in this section, no more than two (2) signs may be erected or maintained on any one premise at any one time; except that when a premise is located on a corner lot and has public entrances on two or more public ways, or that a building has both a front and rear public entrance, one (1) additional sign may be erected and maintained. In calculating the total number of signs on a premise, both permanent and temporary signs shall be combined in the total. A multi-faced sign shall count as a single sign. Signs enumerated in Section 2.30.050 shall not be counted in calculating the total.

2. Sign Area. Notwithstanding anything else in this section, the total sign area per premise, including both permanent and temporary signs, shall not exceed the following:

a. Wall, roof, canopy, and projecting signs:

The total square feet of all walls, roof, and/or projecting signs shall be a sign area of two square feet for each one lineal foot of street frontage shall be allowed not to exceed two hundred fifty (250) square feet. Every premise shall be allowed a minimum of fifty (50) square feet of sign area. Allowable sign area is not transferable from one frontage to another. An additional fifty (50) square feet of sign area shall be allowed for every one hundred (100) feet of street frontage over first, two hundred fifty (250) feet of street frontage. On corner lots, each frontage shall be considered unique and separate in calculation sign area. Multi-faced signs shall be computed as one sign if the signs are parallel and are part of the same sign structure.

b. Ground/Pole Signs: The total square feet of all ground/pole signs shall be a sign area of one square foot for each one lineal foot of street frontage shall be allowed not to exceed two hundred fifty (250) square feet. Every premise shall be allowed a minimum of fifty (50) square feet of sign area. Allowable sign area is not transferable from one frontage to another. On corner lots, each frontage shall be considered unique and separate in calculation sign area. Multi-faced signs shall be computed as one sign if the signs are parallel and are part of the same sign structure.

3. Sign Height: Ground/pole signs shall not exceed a height of 30-feet. Height shall be measured from grade level directly below the face of the sign to the highest part of the sign.

4. Projecting Signs

In addition to the other provisions of this chapter, the following regulations shall apply to all projecting signs:

a. No projecting sign shall project more than seven (7) feet beyond the property line in the direction of the street. No portion of any projecting sign shall be closer than three (3) feet to the face of the street curb or curb line as measured by a horizontal line from the curb or curb line to a vertical line parallel to the most projected portion of the sign. In the central commercial district (C1), sign may project over the state highway and in all other zoning district, no signs shall project over state highway rights-of-way, unless written permission is given by the appropriate state agency.

b. No portion of any projecting sign shall be less than fourteen (14) feet above grade level if it is projecting over public a right-of way.

c. No single face of a projecting sign shall exceed thirty two (32) square feet in area.

d. No projecting sign shall have a vertical dimension greater than six (6) feet.

e. There shall be no more than one (1) projecting sign for any premise unless the premise is located on a corner lot and has public entrances on two or more public streets, in which case one (1) projecting sign may be erected and maintained for and toward each public way.

5. Wall Signs.

In addition to the other provisions of this chapter, the following regulations shall apply to all wall signs:

a. No wall sign shall extend above the top of the wall upon which it is placed.

b. No wall sign, or any part thereof, shall project more than twelve (12) inches from the wall upon which it is mounted.

c. No wall sign shall extend beyond the vertical extremities of the wall to which it is attached.

d. Refer to Section 2.30.060.C.2 for limits on sign area.

e. Banners sign shall be considered as wall sign. An annual permit shall be obtained for each banner sign. The banner may be changed as long it does not exceed the square footage of the approved sign permit.

6. Roof Signs.

In addition to the other provisions of this chapter, the following regulations shall apply to all roof signs:

a. No more than one (1) roof sign may be erected or maintained on a single premise.

b. All roof signs must be set back a distance of at least four feet from all the outside walls of the building on or over which they are located. It is the intention of this provision to provide a clear passageway around the sign.

6. Ground/Pole Signs.

In addition to the other provisions of this chapter, the following regulations shall apply to all ground-pole signs:

1. Ground/pole signs shall be limited to one per street frontage except that businesses on frontages of 250 feet or more may erect two ground/pole signs with a minimum of 250 foot spacing between signs. However, the total sign area of both signs may not exceed that allowed for the street frontage.

D. Miscellaneous Signs**.**

In addition to the other provisions of this chapter, the following regulations shall apply to all miscellaneous signs:

1. In any commercial or industrial district, an area identification sign may be placed and shall not apply to the limits set forth in Section "Sign Area". All other provision of this chapter shall apply to any area identification sign.

2. In any commercial or industrial district, a parasitic sign may be on a sign structure. The use of a parasitic sign shall be limited to thirty days. A parasitic sign may not be an off-premise sign.

3. In any commercial or industrial zoning district, portable signs may only be displayed for 15 permit days per calendar year at any one business location. A separate permit shall be required for each sign. Permits for no more than two portable signs may be issued at a particular business location if the permits are of equal duration and run concurrently. Portable signs shall be secured against overturning.

4. Each subdivision that has been approved in accordance with the regulations of the Subdivision Ordinance shall be allowed one (1) on-premise sign per entrance, not exceeding 75-square feet in area, advertising the name of such subdivision. The subdivision sign shall be set back at least five (5) feet from the property line. The signs should be aesthetically pleasing and blend into the surroundings.

5. Approved temporary signs related to a community event are only allowed to be erected 30 days prior to the event and must be removed within 10 days of the conclusion of the event. Temporary signs shall be approved by the Planning Official for size and location and must substantially conform to the regulations of this ordinance. All non-event temporary sign permits are issued for thirty (30) days, renewable twice for a maximum of ninety (90) days. The temporary sign must be removed following the expiration of the temporary sign permit.

6. Home occupation signs shall not exceed six (6) square feet in area, and shall be limited to one (1) such sign per approved home occupation. A home occupation shall be allowed to have one (1) wall sign or one (1) free standing sign. The freestanding sign shall be located at

least five (5) feet from the property line and have a maximum height of five (5) feet.

The following signs shall be allowed without a permit but must comply with the criteria set forth below:

7. Real estate sale, political campaign and other noncommercial speech signs that do not exceed nine (9) square feet in total and, if free standing, five (5) feet in height. No more than one such sign per street frontage. Political campaign signs may be erected sixty (60) days prior to the scheduled date of the primary election and must be removed not later than seven (7) days after the candidate is unsuccessful, withdraw, or the general election, whichever comes first.

8. Businesses working at a residentially zoned lot, such as landscapers or window treatment installers, may post an identifying sign only when they are physically at the residence, and the sign shall be removed immediately when the working party leaves the property. Such sign shall not exceed nine (9) square feet in total area and, if free standing, shall not exceed five (5) feet in height. No more than one such sign per street frontage per lot is allowed.

9. Parking area signs: For each permitted or required parking area that has a capacity of more than four cars, one (1) sign, not exceeding four (4) square feet in area, may be allowed at each entrance to or exit from such parking area. In addition, one (1) sign, not exceeding nine (9) square feet in area, is allowed for identifying or designating the conditions of use of such parking area.

10. "For Sale" or "For Rent" signs: Not more than one (1) non-illuminated "For Sale" or "For Rent" sign is allowed for the purpose of advertising the sale, rental or lease of the premises on which the sign is located. Such sign shall not exceed nine (9) square feet in size, shall be no more than five (5) feet high and shall be at least five (5) feet from the property line.

11. "Under Construction" signs: For construction on or development of lots, not more than three (3) signs with a combined total area of 70-square feet, stating the names of contractors, engineers or architects, is allowed during the time that construction or development is actively underway.

12. "Emergency 911"signs: Residential locator or E-911 signs.

13. "Directional" signs: Directional signs shall not exceed 20 square feet.

**2.30.070 Applications and Permitting**.

Every sign permit issued by the zoning administrator or designee shall expire by limitation, and become null and void, if the construction does not commence within 60 days from date of permit, and shall expire by limitation in 120 days from the date of permit. For good cause, the director may extend the time limitations for another 120 days. Any extension granted shall be accompanied by a fee equal to one-half of the original permit fee paid to the city. Applications for a Sign Permit shall be made in writing upon forms furnished by the City of Summerset At a minimum, the following complete information shall be provided before an application is considered:

A. Name and address of the sign owner and the contractor.

B. Name and address of the property owner where the sign is to be located.

C. The legal description of the proposed sign location.

D. Clear and legible drawing of the proposed sign to scale with description of the sign showing

construction type and lighting.

E. Site plan showing the location and setbacks on the property where the sign is to be located.

F. The property owner's signature.

G. Other such data and information deemed necessary by the zoning administrator or designee

**2.30.080 Outdoor Lighting for Outdoor Advertising**

A. All lighted outdoor advertising signs/billboards shall meet or exceed the requirements outline in Section 2.26.100.

B. Signs may be illuminated subject to the following restrictions:

1. Signs that contain, include, or are illuminated by any flashing, intermittent (less than six seconds) moving light(s) are prohibited.

2. Electronic variable message signs giving public information such as, but not limited to, time, date, temperature, weather, or other similar information, and commercial electric variable-message signs which function in the same manner as multiple-face signs are permitted, provided such signs do not interfere with traffic safety, do not change messages less than every six seconds and do not resemble or simulate traffic control or safety devices or signs.

3. Signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle.

**2.30.090 Sign Maintenance**

A. Any sign existing on the date of adoption of this ordinance which does not conform with the provisions of this code, is eligible for characterization as a "legal nonconforming sign" and is permitted to remain except as follows: (1) the sign has been removed, relocated or destroyed; (2) the sign has been brought into compliance with this chapter; (3) the sign is abandoned; (4) the sign may be repaired if the expense of ordinary and customary maintenance does not exceed fifty percent of the depreciated value of the sign or if the same has not been damaged beyond fifty percent of its depreciated value by an act of God unless special circumstances warrant a variance by the Board of Adjustment, such as, but not necessarily limited to acts of vandalism or an accident. .

B. Signs shall be maintained in a safe and legible condition at all times, including the replacement of defective or damaged parts, painting, repainting, cleaning, and other services required for maintenance of said signs. Signs requiring basic maintenance as deemed by the planning official shall be brought into compliance within 30 days upon written notice.

C. Signs deemed to be unsafe by the planning official shall be removed or brought into compliance within 24 hours upon written notice. Prior to the planning official deeming a sign unsafe, he or she shall obtain a professional opinion from an engineer licensed in the state of South Dakota stating that, in the best interest of public safety, said sign ought to be removed or

otherwise brought into compliance.

**2.30.100 Enforcement of Sign Ordinance**

A. In addition to any and all remedies allowed under the laws of the State of South Dakota and this ordinance, a violation of any requirement of this ordinance shall also be subject to the penalties as outlined in Chapter 2.42.

B. Unlawful Signs

1. Whenever it shall be determined by the zoning administrator that any sign or sign structure has been constructed or erected or is being maintained in violation of the terms of this title or has been abandoned, said sign or sign structure is hereby declared to be unlawful.

2. Any sign or sign structure found to be unlawful shall be made to conform to all applicable laws and regulations or shall be removed at the expense of the sign owner or landowner (if the sign owner is unknown and reasonable efforts have been made to locate the sign owner with no success).

C. Removal of Signs

1. The zoning administrator may cause to be removed any unlawful sign or sign structure. The City of Summerset shall prepare a written notice which shall describe the sign and specify the violation involved and shall state that if the sign is not removed or the violation or condition is not corrected within 30 calendar days from the date of the notice, the sign shall be removed in accordance with the provision of this ordinance at the expense to the sign owner or landowner (if the sign owner is unknown and reasonable efforts have been made to locate the sign owner with no success).

2. Service of the notice shall be made upon the sign owner and landowner by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested. If service is made upon the landowner, service shall be to the landowner at their address as it appears on the last equalized assessment role of Meade County.

3. Any person receiving notice may challenge the determination of the zoning administrator. The person(s) receiving the initial notice will have fourteen (14) days to file a written notice of appeal to the Board of Adjustments. Failure by any person to appeal the notice within that time period shall constitute a waiver of right to an administrative hearing.

4. The sign owner or landowner, if the sign owner is unknown, shall have ninety (90) days to remove advertisements for establishments that are no longer in business.

**2.30.110 Permits and Fees.**

1. Permits and fees for signs are as follows:

| | | |
|---|---|---|
| a. | New sign permit: | per IBC Ordinance Table 100-A |
| b. | Temporary sign permit: | $35.00 |
| c. | Off-premise sign permit renewal: | $100.00 |
| d. | Annual banner sign renewal: | $100.00 |

## Chapter 2.32. Landscaping and Buffering Requirements.

### 2.32.010 Purpose.

The purpose of these regulations is to provide for the orderly, safe, healthful and aesthetic development of the city and to promote the health, safety and general welfare of the community. The objectives of these regulations are as follows:

A. To aid in regulating and controlling vehicular and pedestrian circulation in parking areas;

B. To enhance the environmental and aesthetic conditions of the community;

C. To protect and enhance the value of property and to provide wildlife habitat;

D. To reduce heat and noise, wind and air turbulence, and the glare of sunlight and vehicle lights, erosion and air pollution.

### 2.32.020 Landscaping required.

Landscaping conforming to the standards set forth in this section shall be required in the following districts:

A. All residential districts.

B. All commercial districts.

C. All industrial districts.

D. All Planned Developments.

### 2.32.030 Definitions.

For the purpose of this section the following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this section, except when the context clearly requires otherwise.

A. *Berm.* An earthen mound designed to provide visual interest, screen undesirable views and /or decrease noise.

B. *Caliper*. Diameter of a tree trunk. The term "caliper" is used for trees less than 12 inches in diameter. For trees less than four inches in diameter, it is measured six inches from the ground. For trees between four inches and 12 inches in diameter, it is measured 12 inches from the ground.

C. *City Department.* Any and all departments of The City of Summerset, South Dakota.

D. *DBH.* Diameter at Breast Height. The term "DBH" is used for trees with a diameter greater than 12 inches and is measured 4½ feet above the ground.

E. *Deciduous.* A plant with foliage that is shed annually.

F. *Developed Area.* The area of a lot that is disturbed for the purpose of developing structures, parking facilities, loading or storage areas, paved access to off-street parking or loading areas or other areas paved with an all-weather material, or landscaped areas. For the purpose of calculating landscape points, it may be submitted in the form of the legal description of the property, or a scaled, dimensioned and well-defined area of development that is referenced on the site plan.

G. *Developer.* The legal or beneficial owner of a lot or parcel or any land proposed for development and/or inclusion in a development, including the owner of an option, contract to purchase, or lease.

H. *Evergreen.* A plant with foliage that persists and remains green year-round.

I. *Groundcover.* An evergreen or deciduous planting less than 24 inches in height. Turf grass is excluded.

J. *Irrigation System.* A permanent underground piping and sprinkler head system designed using industry standard methods to provide uniform irrigation coverage over a landscaped area.

K. *Landscape Architect.* A person registered to practice Landscape Architecture as provided by the State of South Dakota Board of Technical Professions. Landscape Architecture means the performance of professional services such as planning, design, preparation of construction drawings and specifications, including the design and layout of roadways, service areas, parking areas, walkways, steps, ramps, pools, the location of buildings and other structures, and the grading of land, surface and subsoil drainage, erosion control, planting reforestation, and the preservation of the natural landscape, in accordance with accepted professional standards.

L. *Landscape Buffer.* A combination of living vegetation, such as trees, shrubs, grasses or ground cover material, planted or transplanted and maintained.

M. *Landscape Designer.* Any person submitting a landscape plan who is not a licensed landscape architect, architect or engineer, shall be “limited to consultation and preparation of plans and specification with respect to choosing types of plants and planning the location thereof."

N. *Landscape Plan.* The preparation of graphic and written criteria, specifications, and detailed plans to arrange and modify the effects of natural and manmade features such as plantings, ground and water forms, circulation, walks, structures, and other features to comply with the provisions of this ordinance.

O. *Landscaped Area.* Any area that contains trees, shrubs, and/or groundcover that have been claimed for point credits.

P. *Mulch.* An organic material such as seed hulls, pine needles or tree bark used to control weed growth, reduce soil erosion and reduce water loss.

Q. *Parking Lot.* Any off-street, unenclosed ground level facility used for the purpose of temporary storage of motor vehicles. Enclosed parking facilities, such as single or multi-story garages or parking facilities constructed within the confines of a larger building or structure, or parking facilities associated with single family and duplex residential development are not included within this definition.

R. *Parking Lot Planting.* Plantings of hardy trees, shrubs, and /or ground cover required due to the construction of impervious surface parking to be planted within and / or around the perimeter of the parking lot area, excluding parking garages, decks and covered parking.

S. *Parking Lot Island.* A planting island contained completely within the confines of a parking lot.

T. *Parking Peninsula.* A planting island that extends out into the parking area, and is bounded on at least one side by the outer edge of the paving or a building.

U. *Planting Plan.* The preparation of graphic and written criteria of plant placement, plant specification of type, size and spacing, and other features to comply with the provisions of this ordinance.

V. *Planting Season.* The most favorable time to plant trees in Summerset, South Dakota.

X. *Right-of-way.* A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right-of-way" for platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

Y. *Sight-proof Fence.* A solid opaque fence or wall that is a minimum of 6 feet in height, made of wood, masonry, decorative metal, or other suitable material in compliance with the Building Code.

Z. *Significant Tree.* Any existing tree with a caliper of 6 inches or greater that is determined to be in good health by a qualified professional (i.e. Urban Forester, Certified Arborist) following guidelines established by the International Society of Arboriculture.

AA. *Shrub.* A living self-supporting woody deciduous or evergreen species no less than 8 inches in height, and no greater than 15 feet in height, which will remain full and attractive throughout the year.

BB. *Specimen Tree.* A particularly special example of a species because of its size, age, habit or any trait that either epitomizes the character of species or makes the tree an unusual example of its species.

CC. *Tree.* A living self-supporting woody or evergreen plant that normally grows to a minimum height of 15 feet, and which has one or several self-supporting stems or trunks and numerous branches.

DD. *Tree Classification Terms*. The terms "Small Tree", "Medium Tree", and "Large Tree", which refer to the size of a tree at the time it is installed or retained (as outlined in 2.32.060.A.3), regardless of its species.

EE. *Turf Grass*. Existing or installed grass that has been sodded, seeded, or hydro-mulched. Turf grass eligible for point credits must be located within the property lines of a development. The maximum credit for turf is 25% of the total landscape points required for any site. All turf credited for points shall completely cover all exposed areas of soil after one full growing season.

FF. *Xeriscape*. A method of landscaping that emphasizes water conservation, accomplished by following sound horticultural and landscaping practices, such as planning and design, soil improvement, limited turf areas, use of mulches, use of low-water demand plants, efficient irrigation practices and appropriate maintenance.

**2.32.040 General Regulations**.

All rules, regulations, conditions, and requirements set forth in this section are applicable as follows:

A. Any development or construction with required yards in all zoning are subject to these regulations.

B. A final landscape plan shall not be required for single family or duplex development.

C. Any alteration to existing building(s), development(s), or construction that alters the amount of gross floor area of the structure or building shall be required to come into compliance with landscaping requirements as follows:

1. Any alteration to existing building(s), development(s), or construction that alters the amount of gross floor area of the structure or building shall require a minimum of ten (10) points of landscaping be installed, plus two (2) points of landscaping for every additional parking space provided for the building addition.

2. The entire property shall come into compliance with the landscape code when the size of the building addition exceeds 100% of the size of the existing structure or building.

3. If the site (including proposed building addition and parking areas) meets or exceeds current landscape standards, additional landscaping shall not be required.

4. If the site has insufficient green space to provide required landscaping, up to 10% of the number of parking spaces required for a building addition may be used for landscaping, however point values increase from two (2) to ten (10) points for each substituted parking space.

D. The property owner, manager, or property owners' association is responsible, in perpetuity, for maintaining all landscaping by keeping lawns mowed, all plants properly groomed and maintained as disease-free, and planting beds groomed, except in naturally occurring dense growths of underbrush or shrubs.

E. An inspection of all plantings to ensure compliance with the submitted Landscape Plan is required prior to the issuance of a Certificate of Occupancy.

F. Nothing herein shall affect in any way the rights of, or exercise by, any public utility or City department of its present and future acquired rights to clear trees and other growth from lands used by the public utility or City department. The utility or City department shall cooperate and coordinate with the City when clearing or pruning in the rights-of-way.

G. Landscaping within Rights-of-Way.

1. Up to 25% of the required landscaping may be placed in the street right-of-way. The type and location of vegetation shall not interfere with utilities and the safe and efficient flow of street traffic. Approval by the appropriate City departments responsible for street and utilities shall be required.

2. No trees or shrubs shall be placed in the sight triangle for street intersection or street and driveway intersections as required in the Section 2.26.080.

H. Nothing herein shall reduce the lines of sight and traffic visibility standards adopted in this Code's Zoning Regulations. Plantings within 25 feet of an intersection shall not exceed a height of 18 inches.

I. All pervious surface areas of public and private parks, playgrounds, playing fields, and other outdoor recreation facilities shall be excluded from the calculation of Site Points as required by these regulations.

J. Property owners in all zoning districts shall be responsible for landscaping the area between the street rights-of-way line and the curb-line. The use of gravel shall not satisfy this requirement for landscaping. In addition, this area shall not be hard-surfaced, other than a permitted driveway or sidewalk, and it shall not be used for parking.

K. Size and Quality Requirements. Any plant material shall meet the size requirements in Section 2.32.060.A.3.

L. Turf Grass shall be planted in such a manner as to completely cover all exposed areas of soil after one full growing season.

M. No disturbed ground shall be left exposed. Grass and other approved and appropriate groundcovers or mulch shall cover all non-paved and non-built Developed Areas.

N. Grounds Maintenance. The homeowner, property owner, manager, property owners' association or homeowners' association shall:

1. Maintain the landscaping by keeping lawns mowed, all plants properly groomed and maintained as disease-free, and planting beds groomed, except in naturally occurring dense growths of shrubs or undergrowth; and

2. Replace any required planting(s), which have been removed, are diseased or no longer living, within one year or the first planting season, whichever occurs first, except those in naturally occurring dense growths of shrubs or undergrowth.

**2.32.050 Landscape Plan Approval Steps.**

| | |
|---|---|
| STEP 1. | Calculate Points. Determine the number of Site Points required for development, based on the size of the Developed Area, and the number of Parking Lot Points based on the number of parking spaces. |
| STEP 2. | Determine Plant Requirements. Determine the quantity, type, and size of plant materials needed to meet point requirements. |
| STEP 3. | Determine Additional Requirements. Determine whether Residential, Subdivision or other buffers apply to the development. |
| STEP 4. | Develop a Landscape Plan. Develop a Landscape or Planting Plan with plantings that meet point requirements, including any applicable buffer(s). |

**2.32.060 Landscape Requirements.**

A. Planting Requirements / Point System.

1. The Developer may use any combination of plantings to obtain the necessary number of points required for the development. Different lots and landscapes will lend themselves to different types of plantings. These regulations attempt to encourage creativity and diversity in landscaping.

2. Landscaping within any Developed Area must equal or exceed a minimum number of points in order to obtain approval. Site Points are determined by the size of the Developed Area, and Parking Lot Points are determined by the number of parking spaces.

a. Number of Points Required for the Developed Area

| Size of Developed Area | Number of Points Required |
|---|---|
| 1 - 5,000 sq. ft. | **Site Points** = 25<br>**Parking Lot Points** = Two (2) points per required parking space and one (1) point for each proposed additional parking space |
| More than 5,000 sq. ft. | **Site Points** = 25, plus one (1) point for each additional 200 sq. ft. of developed area<br>**Parking Lot Points** = Two (2) points per required parking space and one (1) point for each proposed additional parking space |

b. Exemptions from Site Points for the Developed Area.
(1) Industrial Use Units, and Transportation Facilities: the number of required points shall be derived from the parking space calculation only (three points per each required parking space).
(2) Single-Family and Duplex Residential
(3) Developments within C-1.
c. When only a portion of a large tract is developed (e.g. one (1) acre of a 10 acre tract), only the Developed Area shall be considered when determining the number of points required.
d. Example of Retail Development.

| | | |
|---|---|---|
| DESCRIPTION OF PROPERTY | Developed Area = 20,000 sq.ft.<br>Required Parking Spaces = 20<br>Proposed Parking Spaces = 30 | |
| REQUIREMENTS | Site Points for sites over 5,000 square feet require 25 points plus one (1) point for each additional 200 square feet.<br>Parking Lot Plantings require two (2) points for each required parking space and one (1) point for each additional parking space. | |
| CALCULATION OF POINTS | Site Points for 5,000 sq. ft. | 25 |
| | Additional 15,000 sq. ft. (÷ by 200) | + 75 |
| | Site Points | = 100 |
| | Two (2) points x 20 required parking spaces | 40 |
| | One (1) point x 10 additional parking spaces | + 10 |
| | Parking Lot Points | = 50 |
| | Total Points Required<br>(100 Site Points + 50 Parking Lot Points) | 150 |

3. Landscaping point values.

| Type of Plant Material | Minimum Size (at time of planting) | | Point Value |
|---|---|---|---|
| Large Tree | 8-inch or greater caliper | | 26 |
| | 7-inch caliper | | 24 |
| | 6-inch caliper | | 22 |
| | 5-inch caliper | | 20 |
| | 4-inch caliper | 11-12 ft. height | 18 |
| | 3-inch caliper | 9-10 ft. height | 15 |
| Medium Tree | 2-inch caliper | 7-8 ft. height | 12 |
| Small Tree or Ornamental Tree | Single trunk: 1-inch caliper | 5-6 ft. height | 9 |
| | Multiple Trunk (minimum 3 trunks): 6-foot height, and the smallest trunk 1-inch caliper minimum | | 9 |
| Large Shrub | 5 gallon, 24-inch height at planting | | 3 |
| Medium Shrub | 3 gallon, 12-inch height at planting | | 2 |
| Small Shrub | 2 gallon, 8-inch height at planting | | 1 |
| Ornamental Grasses | 1 gallon | | ½ |
| Groundcover | 1 gallon<br>4-inch pots | | ½<br>¼ |
| Existing Significant Tree | 6-inch caliper (see 7-42) | | 22 to 50 |
| Landscaped Berm | 30-inch height; 10-foot length, 3:1 slope | | 1 per 5 l.f. |
| Turf Grass | N/A | | ¼ per sq. yd. |

4. A minimum of 60% of required points shall be used for landscaping in the front and side yards.
5. A minimum of 25% of required points shall be used for evergreen plantings.
6. A maximum of 25% of required points may be used for turf grass.

B. Landscaping Requirements for Single-Family Residential and Manufactured Home Residential Use Units in the Following Districts: R-1, R-2, R-3.

1. All required perimeter yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation, such as trees, shrubs, grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g. woods or thickets).

2. Within the perimeter yards, there shall be at least one (1) medium tree planted and/or maintained for every 75 feet, or fraction thereof, of frontage with a minimum of one (1) tree per lot.

C. All Non-Residential and Commercial Use Units in the Following Districts: R-1, R-2, R-3, C-1, GI, and PD.

1. All required front, side and rear yards shall be landscaped, except walkways, parking, pertinent equipment, drainage utilities, and other accessory structures permitted by this chapter. The landscaping of these yards shall consist of a combination of living vegetation, such as trees, shrubs, grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g. woods or thickets).

2. All trees and shrubs shall be planted, maintained, or transplanted in accordance with the standards of the American Association of Nurserymen (a copy of which is on file in the city office). All newly planted trees and shrubs shall be mulched and maintained to give a clean and weed-free appearance.

D. Required Landscaping for Industrial Use Units, and Transportation Facilities in the following districts: C-1, GI, and PD.

1. For each required parking space, three (3) points shall be used to plant Parking Lot Plantings.

a. If the parking lot is located in the rear of the building, up to 50% of the parking lot points may be used along public frontage or around the building.

2. For industrial development abutting a street designated as a freeway or expressway by the street plan, landscaping shall be provided according to the following:

a. For each 20 linear feet, or fraction thereof, of that portion of the developed area abutting a freeway/expressway right-of-way, at least one (1) medium tree shall be planted on the developed area. The tree shall be planted within 20 feet of the right-of-way.

b. A vegetative buffer consisting of trees, shrubs and/or berms shall be provided around all parking lots and outside storage areas not screened by buildings from the freeway/expressway. The vegetative buffer shall be at least three (3) feet in height and shall be placed along the freeway/expressway frontage of the parking lots and outside storage areas.

3. For industrial development abutting a street other than a freeway or expressway, landscaping shall be provided according to the following:

a. For each 40 linear feet or fraction thereof, of that portion of the developed area abutting a street right-of-way, at least one (1) medium tree shall be planted on the developed area. The tree shall be planted within 20 feet of the right-of-way.

4. Uses within the ILR or IH district, when located across any street from any use other than industrial shall provide a continuous five (5) foot minimum landscape buffer on the outside of any required fence.

E. Automotive Parking Lot Landscape Requirements for the Following Districts: R-1, R-2, R-3, C-1, GI, and PD.

The purpose of Parking Lot Islands and/or Parking Lot Peninsulas is to help reduce glare and heat buildup; to promote interior islands for pedestrian safety and traffic separation; to visually break up large expanses of pavement; and to reduce surface runoff. All non-covered, street-level parking facilities established and governed by this Chapter shall be landscaped in accordance with the following requirements:

1. In addition to the number of Site Points required, two (2) additional points are added to the site for each required parking space. Any proposed parking space in excess of the number of required spaces shall require one (1) point of landscaping. These points must be used to plant Parking Lot Plantings. The plantings may be located

a. Around the perimeter of the lot to provide a uniform and attractive design, and/or

b. Within Parking Lot Islands, Peninsulas, and/or Landscaped Areas within the developed parking lot.

2. Each Parking Lot Island and/or Peninsula shall be a minimum of 171 square feet (the minimum area of a single parking space) with a minimum average width of five (5) feet.

3. Each Parking Lot Island and/or Peninsula shall contain a minimum of one (1) tree.

4. The distance between any parking space and a Landscaped Area shall be no more than 75 feet.

5. Required Parking Lot Plantings shall be in-ground and not placed upon a paved surface.

6. All Parking Lot Planting areas shall be protected with concrete curbs, or equivalent barriers. Bumper blocks shall not be used for boundaries around the landscaped area.

7. Each tree shall be planted a minimum of two (2) feet away from the outside of any permanent barrier of a landscaped area or edge of the parking area.

8. Ground cover or grasses shall be planted to cover each Parking Lot Planting area within three (3) years from the date of issuance of the Certificate of Occupancy. All Ground Cover shall have a mature height of not more than 24 inches. Loose rock, gravel, decorative rock or stone, or mulch shall not exceed 20% of the Parking Lot Planting area.

9. Space devoted to required Parking Lot Planting areas shall be in addition to any required front, side, and rear yard buffer requirements.

10. Stand-alone parking lots shall require two (2) points of landscaping for each parking space.

F. Exceptions to Automotive Parking Lot Landscaping Requirements. The requirements of this subsection shall not apply to:

1. Parking garages or parking decks.

2. Display areas for uses in the following use units:

a. Automotive Sales and Rentals

b. Automotive and Equipment: Sales and Rentals, Light Equipment.

c. Automotive and Equipment: Sales and Rentals, Farm and Heavy Equipment.

3. Parking lots of existing developments, legally established prior to the adoption of these regulations, unless there is additional square footage added to the parking area. In which case, one (1) point worth of landscaping shall be added for each additional proposed parking space.

G. Sight-proof Screening and Security Fences.

1. For properties located in multi-family, office, commercial or industrial districts, a sight-proof fence on the front property line and/or side property line(s) abutting a street may be erected, provided a five (5) foot wide Landscape Buffer shall be required on the outside of the fence.

2. A security fence in the front yard not to exceed a height of eight (8) feet may be erected when permitted in industrial zoned districts, and neighborhood and public utility facilities. Such security fences may be topped with strands of barbed wire when the height of the barbed wire is over six (6) feet from grade. When located on a property across any street from residential, office, and commercial zoned districts, a five (5) foot wide Landscape Buffer located on the outside of the fence shall be required.

3. When property within an industrial zoned district, or neighborhood and public utility facilities is separated by a local residential, collector, or arterial street from a residential district or use, no industrial use shall be made of the property until the owner/developer has erected sight-proof fence along a side or rear property line or along the front building or property line. In such cases, a five (5) foot wide Landscape Buffer, located on the outside of the fence shall be required on the front and side property lines. If there is any outdoor work, sales, display, and/or storage areas in the required front yard, a sight-proof fence and a five (5) foot wide Landscape Buffer, located on the outside of the fence, shall be required along the front property line.

4. Sight-proof screening or fencing required for any landscape buffer may be credited with two (2) landscape points per every 20 linear feet if constructed of upgraded building materials, such as masonry (limited to brick, split-face concrete block, stone or cultured stone), decorative pre-cast concrete fence systems, or decorative iron.

H. Residential Buffers. On any office, commercial, industrial, planned development, or multi-family development (three or more units) adjacent to a single family or duplex residential district or use, a landscaped buffer along the property line(s) of the developing property is required. The buffer shall run the entire length of the abutting lot line(s). The type of buffer may consist of any or all of the following:

1. A solid fence not less than six (6) feet in height, with either:

a. A Landscape Buffer, minimum five (5) feet in width, located on the inside of the fence; or

b. Trees spaced 25 feet on center.

2. A landscaped buffer no less than six (6) feet in width, planted with a series of evergreen plantings at least six (6) feet in height and spaced in a manner to provide an impervious visual barrier; or

3. A natural, undisturbed wooded area at least 20 feet in width.

I. Subdivision Buffers.

All residential developments adjacent to arterial streets shall provide a landscaped buffer, located on the outside of any subdivision fence, consisting of any combination of trees, shrubs, groundcovers, earthen berms and/or rock or stone accents, arranged in a manner to achieve visual continuity.

1. The buffer shall contain a minimum of four (4) points for every 20 feet of frontage.

2. If the buffer is provided within the right-of-way, it shall be located within 10 feet of the property line along the entire adjacent public street frontage, exclusive of driveways and accessways at points of ingress and egress. No trees, shrubs, fences, berms or other landscape improvements that would impede visibility shall be located in sight triangles.

3. The type and location of plantings within the public rights-of-way shall not interfere with utilities. Plantings whose mature height exceeds 15 feet shall not be planted beneath overhead utility lines. Approval by the appropriate City departments responsible for street and utilities shall be required.

**2.32.070 Landscape Plans.**

At the time of submission for a Building Permit, and also at the time of application for all Planned Developments, and Conditional Use Permits, a landscape plan, separate and apart from

other required plans, shall be submitted and made a part of the file. No landscape plans are required for single-family or two-family residential developments.

A. Preparation of Plans. Landscape plans may be prepared by any of the following:

1. A Planting Plan may be submitted by any person, provided the plan is limited to plant specification and placement only;

2. A Landscape Architect registered in the state of South Dakota;

3. A licensed Architect or professional Engineer licensed in the State of South Dakota, provided the services are incidental to the performance of his or her normal practice as an architect or engineer.

B. All landscape plans shall include the following information:

1. North arrow and scale;

2. The location of existing property lines and dimensions of the tract, accurately drawn to scale;

3. Exact locations and outline of all rights-of-way (both existing and proposed by the street plan of Streets of the City of Summerset, South Dakota);

4. The location of all existing and proposed buildings and parking areas, including the exact number of parking spaces provided;

5. The location and size of any permanent fixture or structure, including but not limited to sidewalks, walls, fences, trash enclosures, project storage, lighting fixtures, signs, and benches which are relevant to the landscape plan;

6. The location, size, and type of all above-ground and underground public utilities with notation, where appropriate, as to any safety hazards to avoid during installation of landscaping. Alternatively, a letter of no objection provided by the utility company may be provided;

7. The location, size, type, spacing (on center), and quantity of all proposed plant materials and existing plant materials credited for points shall be graphically represented and referenced on the plan by a common name and an appropriate key of all plant species;

8. Detailed sprinkler diagram or irrigation plan showing coverage. If an automatic irrigation system is not proposed, the location of all required hose connections and other watering sources shall be noted;

9. All screening required by these regulations; and

10. A table listing the square footage of the developed area, number of proposed parking spaces, and all plant materials by common name, size, type, quantity, and point value and totals.

C. Consideration should be given to the location of trees so that when they reach mature height they do not interfere with utility wires. In addition, as required in other sections of the City Code, property owners shall keep vegetation trimmed so that it does not obstruct the free, convenient, and safe travel over and along streets and sidewalks.

D. Completion Requirement. A Certificate of Occupancy, for any use, shall not be issued until the required landscaping has been installed in accordance with the Landscape Plan, and it shall be illegal for any person, firm, or corporation to occupy or operate a business in any new structure or building addition for which landscaping, as shown by the plans, is not provided; except, that if a structure and all site improvements are complete except for the required landscaping, and it is not the planting season (May through September), temporary occupancy may be permitted for a period of six (6) months, or until the next planting season, whichever comes first. If the required landscaping has not been completed by the required time, the property owner shall be in violation of this chapter and subject to the penalties set forth herein.

**2.32.080 Landscape Irrigation Requirements.**

A. The property owner shall be responsible for the irrigation of all required landscape areas and plant materials, with exception of natural areas and xeriscape plantings, utilizing one or a combination of the following methods:

1. An automatic or manual underground irrigation system (conventional spray, bubbler, etc.), equipped with a rain and freeze sensors;

2. An automatic water-saving irrigation system (drip, porous pipe, leaky pipes, etc.) equipped with a rain and freeze sensors;

3. A hose attachment within 100 feet of all required landscape areas and plant materials.

B. The irrigation method used shall be in place and operational at the time of the landscape inspection for Certificate of Occupancy; and shall be maintained and kept operational at all times to provide for efficient water distribution.

C. Landscape areas utilizing xeriscape plants and installation techniques may use a temporary and aboveground system and shall be required to provide irrigation for the first three (3) years only.

D. Landscape plans shall indicate, by a detail, a drawing, or by specification in a note on the site plan, the type and location of irrigation that will be used. Plans should be specific enough to show that adequate irrigation would be provided to all required landscape areas and plant materials.

E. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

**2.32.090 Existing Tree Credit.**

In order to encourage the preservation of Summerset, South Dakota's older trees, credits toward required points may be given in the event existing trees are preserved.

A. Landscape points shall be applied for each existing Significant Tree of the following sizes:

| Size of Existing Significant Tree: | Landscape Points Applied: |
|---|---|
| 6-inch caliper | 22 |
| 7-inch caliper | 24 |
| 8-inch to 10-inch caliper | 26 |
| 10.1-inch caliper to 15-inch DBH | 30 |
| 15.1-inch to 20-inch DBH | 35 |
| 20.1-inch to 25-inch DBH | 40 |
| Over 25-inch DBH | 50 |

B. Trees for which an owner/developer wishes to receive credit must be in the developed area, however, no more than 25% of the total points may be located within the public rights-of-way.

C. Any Significant Tree claimed for points that dies during construction, or as a result of construction, shall be replaced with a tree (or trees) to equal or exceed the point of value of the lost tree.

**2.32.100 Health, Safety, and Aesthetic Barriers.**

A. Whenever property in one zoning category abuts property of a more restrictive zoning category and the property in the less restrictive category is being developed, the Zoning Administrator may require, as a condition of the building permit, such barriers be constructed by the developer as are deemed necessary and appropriate for the protection of the more restrictive area. Appeals of the zoning administrator's requirements. The zoning from most restrictive to least restrictive is as follows: AG, R1, R2, R3, C1, and GI and in any Planned Development with similar uses.. Such devices may include fences, hedges, traffic controls and patterns or any other device reasonably necessary to attain the goals sought. For purposes of definition, property of one zoning category shall be deemed to abut another zoning category whenever two properties directly abut.

B. The foregoing provision shall not apply to the development of an R2 property abutting an R1 district.

C. In commercial and industrial districts, outside storage of goods or materials shall be prohibited in any area on the street frontage of a building.

## Chapter 2.34 Nonconforming Uses.

### 2.34.010 Purpose and intent.

The purpose of this chapter 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.

### 2.34.020 Continuation of nonconforming uses.

Subject to the provisions of this chapter, the lawful use of a premises or a building or structure existing immediately prior to the effective date of this title or any amendment thereto may be continued although such use does not conform to the provisions hereof except as otherwise provided in this chapter.

### 2.34.030 Change of nonconforming use.

A. If no structural alterations or additions are made, a nonconforming use may be changed to another nonconforming permitted use of the same or a more restrictive classification that:

B. For the purposes of this chapter, each of the following classifications shall be considered to be "more restrictive"

1. Agricultural
2. Single-Family Residential
3. One and Two Family Residential
4. Multi-Family Residential
5. General Commercial
6. General 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.

### 2.34.040 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 premises is located or required to do so by law or order. However, if a building or structure is legally conforming as to use, but legally nonconforming as to yards or height or off-street parking space, the building or structure may be enlarged or added to; provided, that the enlargement or addition complies with the off-street parking requirements of the district in which the building or structure is located and further does not encroach into any required setback beyond the building line established by the existing building or structure. No legally nonconforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of the building or structure is made to conform to all of the regulations of the district in which it is located. Nothing in this section shall prohibit the expansion of the legal nonconforming use if the property is for a single-family dwelling and any expanded use complies with yard, height, lot coverage and use requirements for R1 zoning.

### 2.34.050 Restoration after damage.

When the use of a building is nonconforming as defined by this title and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than fifty

(50) 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.

When damaged by less than fifty (50) percent of its value, a legal nonconforming building may be repaired or reconstructed, and used as before the time of damage, provided such repairs or reconstruction are completed within one year of the date of such damage.

**2.34.060 Discontinuation of nonconforming uses.**
In the event that a nonconforming use is discontinued for more than one year, the City Commission may adopt, after notice by certified mail to the property owners, an amortization schedule to bring about the gradual elimination of such nonconforming use.

**2.34.070 Effect on use which is illegal under prior law.**
Nothing in this title 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 title or any amendment thereto.

**2.34.080 Existing small lots.**
Where an individual lot is held in separate ownership and complies with all applicable zoning and subdivision requirements, except for the minimum lot size requirement of the zoning district in which it is located, such lot may be developed for any permitted uses or conditional uses specified in that zoning district except for duplex or multi-family development.

## Chapter 2.36 Authorizing Conditional Uses.

### 2.36.010 General.

The City of Summerset recognizes that diversity and the blending of compatible uses is essential to a healthy and dynamic community. Toward that end, the following procedure is established to properly integrate Conditional Uses with permitted uses in the district. The planning and zoning commission may authorize by conditional use permit the uses designated in this chapter when located in a zoning district allowing such use. The planning and zoning commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of such conditional use permit.

### 2.36.020 Application Procedure.

A. A property owner or a designated representative may apply to the City for a Conditional Use, using forms available from the Zoning Administrator. If the request is by a designated representative, the designation shall be in writing, signed by the property owner, and filed with the application fees.

B. Requirements for submission – An applicant shall submit a preliminary development/redevelopment plan to the Planning and Zoning Commission. The plan shall include, but not be limited to:

1. The location and legal description of the property;
2. Position, size and use of all structures, improvements and facilities to be constructed/reconstructed;
3. Location of all points of ingress and egress and internal traffic circulation pattern;
4. If applicable, landscape, lighting and drainage plan;
5. Parking plan
6. Such other architectural and engineering data as may be required by the Planning and Zoning Commission.

C. The City shall set a date for public hearing on the request. Said date for the public hearing shall be a day when the Planning and Zoning Commission is regularly scheduled to meet as determined by the rules, policies and regulations as adopted or which may hereafter be adopted by the Planning and Zoning Commission for holding public hearings on such requests, or the Planning and Zoning Commission may designate a special meeting at which to hear a requested conditional use application. The Planning and Zoning Commission shall act on all applications within ninety (90) days of submission of the application, or the application shall automatically be approved; provided, however, that, the applicant may waive this requirement in writing and consent to the extension of the period.

D. Notification of surrounding property owners, tenants and interested parties shall be accomplished by the following.

1. A sign noting the fact that a conditional use permit request is pending shall be posted on the site not less than ten (10) calendar days before the public hearing before the Planning and Zoning Commission. The sign shall be maintained on the site until the final action has taken action on the request or the petition is withdrawn. Approved signs shall be secured from the city

who shall require a reasonable deposit sufficient to cover the cost of replacement of the sign or signs and who shall determine the number and location of the sign or signs to be posted on the site addressed in the petition for conditional use permit.

2. The petitioner shall submit postal receipts to demonstrate a good faith attempt to notify by certified letter with return receipt all property owners within two hundred fifty (250) feet, inclusive of public right-of-way, of the site measured from the perimeter of the lot, or lots which contain the buildings and area dedicated to the proposed use. The certified mailings shall include the date set for the hearing before the Planning and Zoning Commission and contemplated uses, and shall be on a form provided by the city. The property owners listing shall be prepared by the City of Summerset and based on the Meade County director of equalization office records of ownership and addresses. Notices are to be sent by the applicant to all parties on the aforementioned list by certified mail with return receipt requested no less than ten (10) calendar days prior to the public hearing on the request held by the Planning and Zoning Commission.

3. The Planning and Zoning Commission shall hold its public hearing, having given (10) days notice of the date, place and time of the hearing in the City's designated legal newspaper.

E. The Planning and Zoning Commission may impose such conditions regarding the location, character, or other features of the proposed use or buildings as it may deem advisable in the furtherance of the general purposes of this Ordinance. The Planning and Zoning Commission shall makes its decision, fully setting forth its findings and conditions, if any, for approval. Any decision to grant a conditional uses shall be based upon and accompanied by a statement regarding:

1. The objectives of the comprehensive plan;

2. The purpose of the zoning ordinance and its relevant zoning districts when making a decision to approve or disapprove a conditional use permit; and

3. The following conditional use standards:

a. The location, character and natural features of the property;

b. The location, character and design of adjacent buildings;

c. Proposed fencing, screening and landscaping;

d. Proposed vegetation, topography and natural drainage;

e. Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons;

f. Existing traffic and traffic to be generated by the proposed use;

g. Proposed signs and lighting;

h. The availability of public utilities and services;

i. The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein;

j. The overall density, yard, height and other requirements of the zone in which it is located;

k. The effects of noise, odor, smoke, dust, air and water pollution and the degree of control through the use of clarifiers, screening, setbacks and orientation; and

l. The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses.

**2.36.030 Appeals**
The decision rendered by the Planning and Zoning Commission on a conditional use permit may be appealed to the city commission. Any person or party has the right to appeal the decision of the Planning and Zoning Commission regarding any conditional use permit. Appeals must be made in writing and filed with the city by close of business on the fifth working day from the planning commission's decision. When an official appeal has been filed, the city commission shall conduct a public hearing to act on all applications which have been appealed to them for public hearing as provided in this section.

A. Upon the filing of any appeal of a planning commission decision of a conditional use permit with the planning department, the applicant shall pay to the city an administration fee of one hundred (100) dollars.

B. Upon the filing of any appeal of a Planning and Zoning Commission decision of a conditional use permit, the city shall set a date for public hearing on the request. Said date for the public hearing shall within thirty (30) days of the appeal and shall be a day when the city commission is regularly scheduled to meet.

C. The city shall mail a notification of the appeal to all land owners as identified in the original mailing as required in subsection 2.36.020.D.2. Notices are to be sent by the city to all parties on the aforementioned list by first class mail no less than ten (10) calendar days prior to the public hearing on the request held by the city council.

D. The city commission shall review the decisions and recommendations of the Planning and Zoning Commission of all applications coming before the city commission as provided in this chapter. The city commission, in making its determination of such applications, may make changes in accordance with or in rejection or modification of the recommendation of the Planning and Zoning Commission. Any modification to the Planning and Zoning Commission decision shall be in compliance to the conditional use permit criteria stated in section 2.36.020.E inclusively.

**2.36.040 Amendments.**
Approved plans shall not be changed, modified, or altered without authorization from the Planning and Zoning Commission giving final approval, and all work shall be completed and enforced in accordance with the approved plans. The conditions of approval of a conditional use permit may be amended. Amendments are considered major or minimal and are addressed in the following manner.

A. Major amendments shall be processed in the same manner as required for a separate conditional use permit. A major amendment is required when:

1. A change to specific stipulations addressed in the initial approval or a subsequent amendment;

2. The structure and/or occupied site is substantially enlarged. A structure is considered to be substantially enlarged when the gross square footage increases by 20% or 2,000 square feet, whichever is less. The land or site which supports the use is considered to be substantially

enlarged when the gross square footage of the occupied site increases by 10% or 10,000 square feet, whichever is less; and

3. The Zoning Administrator determines that the proposed change is major and requires public hearing review.

B. Minimal amendments must be reviewed and approved by the Zoning Administrator. A minimal amendment involves a change to the site plan affecting any or all of the following: parking, circulation, landscaping, lot coverage by buildings or building setbacks. The director shall determine that the proposed modification to the site will not have a significant adverse impact on neighboring properties, the street network or the appearance of the property in approving a minimal amendment. The director shall consider the criteria outlined in section 2.36.020.E inclusively to determine if the proposed modifications still meet the requirements of a conditional use permit. The Zoning Administrator shall file a memorandum explaining the changes with the original conditional use permit file or major amendment file.

**2.36.050 Expiration and Renovations.**

A. A conditional use permit approved shall expire if the primary use proposed under the conditional use permit has not been undertaken and completed according to the terms and conditions of the conditional use permit within 2 years of the approval of the conditional use permit. A conditional use permit is considered approved upon the effective date of the Planning and Zoning Commission or Common Commission's action, resolution or ordinance relating thereto.

B. A conditional use permit approved shall expire one year after the use discontinues on the premises.

C. The use is changed to another permitted use in the underlying district.

D. Upon written request to the director and prior to the conditional use permit expiration date, the director shall place the extension request on the next regular scheduled planning commission meeting. The planning and zoning commission may extend the period of the conditional use permit where it is warranted in light of the relevant circumstances, including, but not limited to the size and phasing of the development, economic cycles and market conditions. The planning and zoning commission may grant one, two (2) year extension to the original conditional use permit or major amendment. If a longer extension is requested, the extension shall be processed as a major amendment and shall follow all procedures required in subsection 2.36.040.A.

F. A conditional use permit may be revoked only for cause, consisting of failure to maintain the standards required for the conditional use permit. A notice of intent to revoke a conditional use permit shall be given in writing 30 days prior to actual revocation and shall specify the area or areas of continued failure to meet requirements and maintain conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the conditional use permit, the conditional use permit shall be continued in force. If a hearing has been requested following receipt of notice of intent to revoke, the planning and zoning commission shall hold a public hearing on the matter and make a final determination on the revocation.

**2.36.060 Denial of Request.**
In the event the request for a conditional use permit is denied by the Planning and Zoning Commission or the City Commission, re-application shall not be permitted for a period of one year, unless the Zoning Administrator determines that the request has substantially changed.

## Chapter 2.38 Amendments.

This Ordinance may be amended, supplemented, revised or repealed from time to time as conditions warrant, subject to the following standards and procedures:

### 2.38.010 Standards for Amendments.

A proposed amendment shall be considered on its own merits using the following criteria as a guide.

A. Text or Map Amendments. Proposed amendments shall:

1. be necessary because of substantially changed or changing conditions of the area and district affected, or in the Ordinance generally.
2. be consistent with the intent and purposes of the Ordinance.
3. not directly or indirectly adversely affect any other part of the Ordinance.
4. be consistent with and not in conflict with the Summerset Comprehensive Plan.

B. Errors or oversights as may be found in the Ordinance as originally adopted shall be corrected under the normal amendment procedure.

### 2.38.020 Text Amendments.

Text amendment requests shall be filed with the Zoning Administrator. Requests may be initiated by the Planning and Zoning Commission or City Commission.

A. General: The proposed amendment shall be presented at a regularly scheduled meeting of the Planning and Zoning Commission, at which time the Commission may initiate a study of the amendment. If no study is deemed necessary, a public hearing shall be set.

B. Hearing by the Planning and Zoning Commission: The Planning and Zoning Commission shall publish legal notice not less than ten (10) days prior to the public hearing. At the close of the public hearing, the Planning and Zoning Commission shall forward its recommendation to the City Commission.

C. Hearing by City Commission: The City Commission shall publish legal notice not less than ten (10) days prior to the public hearing on the amendment. After taking into account all pertinent information and the recommendation of the Planning and Zoning Commission, the City Commission shall make a final determination within thirty (30) days from the date of the hearing.

### 2.38.030 Rezoning Request.

An application for a rezoning shall be filed with the Zoning Administrator. Rezoning requests may be initiated by either the property owner or a designated representative, or by an appropriate governmental agency. If by a designated representative, the designation shall be in writing, signed by the property owner, and filed with the application.

A. The applicant shall appear before the Planning and Zoning Commission to present the application, at which time the Planning and Zoning Commission may initiate a study of the request. If in the opinion of the Planning and Zoning Commission a study is not required, a public hearing shall be set.

B. Notification procedure: The applicant shall notify by certified letter, at least ten (10) days in advance of the public hearing, the owners of equity of all property in the City limits within 250 feet, inclusive of streets and alleys, from any part of the property subject to the rezoning, of the date, place and time of the public hearing. Such notification shall fully set forth a description of the development plan for the property, if any, in the event the rezoning request is approved.

C. Hearing by the Planning and Zoning Commission: The Planning and Zoning Commission shall publish legal notice not less than ten (10) days prior to the public hearing. At the close of the public hearing, the Planning and Zoning Commission shall forward its recommendation to the City Commission.

D. Hearing by City Commission: The City Commission shall publish legal notice not less than ten (10) days prior to the public hearing. After taking into account all pertinent information and the recommendation of the Planning and Zoning Commission, the City Commission shall make a final determination within thirty (30) days of the date of the hearing.

**2.38.040 Protest.**

Approval or denial of any application for a zoning district classification shall be by a majority of all members of the city council. After publication of the city council's approval as provide for in SDCL 9-19-7, the zoning district classification change shall take effect unless the referendum be invoked, or unless a written protest be filed with the city clerk, signed by at least 40 percent of the owners of equity in the lots included in any proposed district and the lands within 250 feet from any part of such proposed district. A corporation shall be construed to be a sole owner, and when parcels of land are in the name of more than one person, owner representation shall be in proportion to the number of signers who join in the petition in relation to the number of owners. If a protest is filed, the ordinance does not become effective unless the ordinance is approved by a resolution by two thirds of the city commission at its next regularly scheduled meeting. The protest provisions of this section do not apply to any ordinance regulating or establishing floodplain areas.

## Chapter 2.40 Board of Adjustments

### 2.40.010 Variances.

The purpose of the variance is to modify the strict application of the specific requirements set out in each zoning district in conditions where such strict application would result in practical difficulty or unnecessary hardship depriving an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some condition which prevents an owner from using his lot as the Zoning Ordinance intended.

### 2.40.020 Board established.

There is hereby established a board of adjustment which may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances, hear appeals or make special exceptions to the terms of this title in harmony with its general purpose and intent and in accordance with the general or specific rules herein contained.

### 2.40.030 Membership.

If neither the planning and zoning commission or the city commission are not designated as the board of adjustments, then the board of adjustments shall consist of five persons to be appointed by the mayor. The terms of all members shall be for three years each and so arranged that the term of at least one member will expire each year. Members of the board shall be removable for cause by the mayor upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The mayor shall also appoint a first alternate and a second alternate for a term of three years each. If a member is unable to attend a meeting, the first alternate or second alternate, in turn, shall serve in that person's place.

### 2.40.040 Rules.

The board shall organize and adopt rules to govern its proceedings; provided, however, that such rules are not inconsistent with the City of Summerset Ordinances, the City of Summerset comprehensive plan, state or federal law.

### 2.40.050 Meetings.

All meetings of the board shall be open to the public and held as the board may determine. The chairperson or, in his absence, the acting chairperson may administer oaths, and the board may compel the attendance of witnesses. All business of the board shall be transacted at such meetings. The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

### 2.40.060 Appeal Procedure.

A. Any person aggrieved by any decision of the administrator may make an appeal to the board. The petitioner shall file an application for a variance, in writing, on a form furnished by the city. Every application shall contain the following information:

1. Legal description of the land on which such variance is requested, together with local street address.

2. Name and address of each owner of the property.
3. Name, address, phone number and signature of the applicant.
4. Zoning district classification under which the property is regulated at the time of such application.
5. The specific standard, regulation, or decisions which is being appealed.
6. The specific remedy that is being requested.
7. Any drawings, plans, and other documentation requested by the board.

B. Upon the filing of any application for a variance with the planning department, the applicant shall pay to the city the appropriate fee as designated in Section 2.42.110.

C. Notification of surrounding property owners, tenants and interested parties shall be accomplished by posting a sign on the property, by mailing notices of public hearing to neighboring property owners and legal notice is the general circulation paper.

1. A sign noting the fact that a variance request is pending shall be posted on the site not less than ten (10) calendar days before the public hearing before the zoning board of adjustments. The sign shall be maintained on the site until the final action has taken action on the request or the petition is withdrawn. Approved signs shall be secured from the city who shall require a reasonable deposit sufficient to cover the cost of replacement of the sign or signs and who shall determine the number and location of the sign or signs to be posted on the site addressed in the petition for the variance.

2. The petitioner shall submit postal receipts to demonstrate a good faith attempt to notify by certified letter with return receipt all property owners within two hundred fifty (250) feet, inclusive of public right-of-way, of the site measured from the perimeter of the lot, or lots which contain the buildings and area dedicated to the proposed use. The certified mailings shall include the date set for the hearing before the zoning board of adjustments and variance requested, and shall be on a form provided by the planning department. The property owners listing shall be prepared by the City of Summerset and based on the Meade County director of equalization office records of ownership and addresses. Notices are to be sent by the applicant to all parties on the aforementioned list by certified mail with return receipt requested no less than ten (10) calendar days prior to the public hearing on the request held by the zoning board of adjustments.

D. Upon the filing of an application for a variance, the city shall set a date for public hearing on the request. Said date for the public hearing shall be a day when the zoning board of adjustments is regularly scheduled to meet as determined by the rules, policies and regulations as adopted or which may hereafter be adopted by the zoning board of adjustments for holding public hearings on such requests. The zoning board of adjustments shall consider and decide the applications for variances within 30 days of the public hearing and in accordance with the following standards:

a. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography or siting), fully described in the finding of the Board, do not apply generally in the district;

b. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

c. For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this title would deprive the

applicant of any reasonable use of their land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land;

d. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land; and

e. The granting of any variance is in harmony with the general purposes and intent of this title and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development

E. Before the Board shall have the authority to grant a variance, the person claiming the variance has the burden of showing:

1. That the granting of the variance will not be contrary to the public interest;
2. That the literal enforcement of this title will result in unnecessary hardship;
3. That by granting the variance contrary to the provisions of this title the spirit of this title will be observed;
4. That by granting the permit, substantial justice will be done.

F. Decisions of board. Every decision by the board shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the variation. The concurring vote of three-fourths of the members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to grant any variance.

**2.40.070. Limitations.**

Any order of the board of adjustment granting a variance shall be invalid unless substantially completed within two years from the date of such order, and such order shall expire without notice. For good cause, the board may extend this.

**2.40.080. Court review.**

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 city, may petition a court of record within 30 days after the filing of the board's decision, as provided by SDCL 11-4-25.

## Chapter 2.42 Administration and Enforcement

### 2.42.010 Administrative Officer.

The provisions of this Ordinance shall be administered by the Zoning Administrator, who shall:
A. Maintain and keep current zoning maps and records of amendments, variances and conditional use permits.

B. Conduct inspections as prescribed by this Ordinance.

C. Interpret the provisions of this ordinance.

D. Issue all building permits and make and maintain records thereof.

E. Issue all certificates of occupancy and make and maintain records thereof;

F. Issue and renew where applicable all temporary use permits and make and maintain records thereof; and

### 2.42.020 Planning and Zoning Commission.

The Summerset Planning and Zoning Commission shall:
A. Establish rules of procedure that are necessary to the performance of its function under this ordinance.

B. Review and decide all applications for conditional uses in accordance with Chapter 2.36

C. Review and make recommendation to the City Commission on all applications brought forth by the public in accordance with this Ordinance, or as required by state statutes not specifically identified herein and further, to review annually this ordinance and on the basis of the review, suggest amendments thereto;

D. Until such time that a Board of Adjustment has been appointed, the Planning and Zoning Commission shall have full power to function as a board in their jurisdiction.

### 2.42.030 City Commission.

The Summerset City Commission shall:
A. Establish rules of procedure that is necessary to the performance of its functions under this ordinance.

B. Review and decide all applications and amendments brought forth by the public in accordance with this Ordinance.

### 2.42.040 Right of entry.

Whenever necessary to make an inspection to enforce any of the provisions of this title, or whenever the administrator or their authorized representative has reasonable cause to believe that there exists in any building or upon any premises an ordinance violation, the administrator or their authorized representative may enter such building or premises at all reasonable times to

inspect the same or to perform any duty imposed upon the administrator by this title, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, 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 administrator or their authorized representative shall have recourse to every remedy provided by law to secure entry.

When the administrator or their 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 administrator or its authorized representative for the purpose of inspection and examination pursuant to this title.

**2.42.050 Stop order.**
Whenever any work is being done contrary to the provisions of this title, the 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 director to proceed with the work.

**2.42.060 Occupancy violation.**
Whenever any building or structure regulated by this title is being used contrary to the provisions of this title, the 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 title.

**2.42.070 Certificate of occupancy.**
No new building shall be occupied and no change in occupancy of a building or part of a building shall be made until after the administrator shall have issued a certificate of occupancy therefore as regulated in the current building codes adopted by the City of Summerset. After final inspection, if it is found that the building, structure or land complies with the provisions of this title and other laws of this jurisdiction, the administrator shall issue a certificate of occupancy.

**2.42.080 Cooperation of other officials and officers.**
The administrator may request and shall receive so far as is required, in the discharge of his duties, the assistance and cooperation of other officials of this jurisdiction.

**2.42.090 Violation and penalty.**
Violations of the ordinance 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 this ordinance 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 violation of a city ordinance. Each and every day that such violation continues after notification may constitute a separate offense.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the appropriate authorities of the City of Summerset, 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.

**2.42.100 Appeals.**
Within thirty (30) days of the Zoning Administrator's decision, a person may appeal, in writing, to the Zoning Board of Adjustments. The appeal shall be accompanied by fees as required for a variance. Upon receipt of an appeal and fee, the Zoning Board of Adjustments shall consider and decide within thirty (30) days.

**2.42.110 Fees.**
Fees for all permits, fees required for filing of appeals, and fees for applications for amendments to this Zoning Ordinance are established as follows:

| | |
|---|---|
| Rezoning/Text Amendments | $ 300.00 |
| Conditional Use Permit | $300.00 |
| Conditional Use Appeals | $ 100.00 |
| Variances | $ 300.00 |
| Planned Development | $ 300.00 |
| Tax Incremental Finance District | $1000.00 |

**2.42.120 Pending Ordinance Rule.**
An applicant may be denied a permit, plat, re-plat, rezone, variance, conditional use permit, or other use of property for a use allowed by this ordinance if, at the time of application, an amendment is pending, which if adopted, would proscribe the proposed use.

**2.42.130 Complaints Regarding Violations.**
Any person directly affected may file a written complaint alleging a violation of this ordinance. The complaint shall state the basis for the violation, how the complainant is affected, and be filed with the Zoning Administrator, who shall timely investigate and take appropriate action as provided by this Ordinance.

**2.42.140 Penalties.**
Unless another penalty is expressly provided, every person convicted of a violation of any provision of this ordinance, rule or regulation, adopted or issued in pursuance thereof, shall be punished by a fine of not more than $200.00. Each violation and each day upon which any violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section herein, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty described above, the City may pursue other remedies, including but not limited to, abatement of

nuisances, injunctive relief and revocation of licenses or permits. The owner or owners of real estate within the district affected by the regulation of this ordinance may also pursue such remedies by filing a complaint through the Planning and Zoning Commission.

**2.42.150 Interpretation, abrogation, and severability.**
In interpreting and applying the provisions of this ordinance, 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 of this ordinance to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, the city shall only enforce the provisions of this title. All other ordinances inconsistent with this title are hereby repealed to the extent of this inconsistency only. If any section, sentence, clause, phrase or other portion of this title is held unconstitutional or invalid by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this title.

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

**2.42.170 Conflict with Public and Private Provisions**
Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations, or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction. Restrictive covenants may be taken into consideration by the City in the issuance of building permits. As a rule of law, the City may not enforce covenants.

**2.42.180 Repealer**
All ordinances of a general and permanent nature enacted on or before February 3, 2011 not included, recognized and continued in force by reference therein by the Ordinances of the City of Summerset, South Dakota, are repealed.

**2.42.190 Construction of Repealer.**
The repeal provided for in Section 2.42.180 hereof shall not be construed to revise any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

ATTEST:

| | |
|---|---|
| _____ | _____ |
| Rebecca J. Phillips | Duane K. Fink |
| Finance Officer | Mayor |

Vote: Butler: Aye
Fink: Aye
Wagner: Aye

First Reading: 11/10/10
Second Reading: 02/03/11
Publication:
Effective Date: 03/01/11

Published once at the approximate cost of $_____.

Approved to form and content by the City Attorney.