

# **2018 REVISED ALCESTER ZONING REGULATIONS**

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

**ORDINANCE NO. 2018-01**

AN ORDINANCE OF THE CITY OF ALCESTER, SOUTH DAKOTA ADOPTING THE 2018 REVISED ALCESTER ZONING REGULATIONS.


BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALCESTER, UNION COUNTY, SOUTH DAKOTA:

That this Ordinance adopts Ordinance No. 2018-01 as set forth in the attached document titled 2018 Revised Alcester Zoning Regulations; provides restrictions, district boundaries and zoning map; provides for the administration, enforcement and amendment of this Ordinance; and repeals any other ordinance or parts thereof in conflict with this Ordinance.

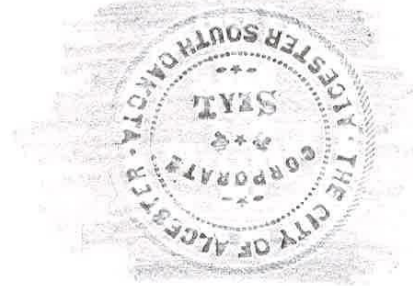
Dated this 10<sup>th</sup> day of July, 2018.

  
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Mayor

ATTEST:

  
Finance Officer

(SEAL)



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# CHAPTER 1. GENERAL PROVISIONS

- 1.01 Title and Application.** These regulations shall be referred to as the “2018 Revised Alcester Zoning Regulations”, or herein, as “this Ordinance”.
- 1.02 Jurisdiction.** The provisions of this Ordinance shall apply to all territory within the municipal boundaries of the City of Alcester, South Dakota, as established on the Official Zoning Map of the City of Alcester.
- 1.03 Purpose.** This Ordinance has been based upon the Alcester Comprehensive Plan adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws (SDCL). It is designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended to:

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

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

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

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

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

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



## CHAPTER 2. DISTRICTS AND BOUNDARIES

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

- A. Except as otherwise provided, a lot shall only be used:
  - 1. For a principal land use authorized in this Ordinance as either a Permitted or Conditional Use in the district in which it is located or proposed to be located;
    - a. Exception: The Authorized Official may determine that a proposed principal land use, while not specifically classified within a district as a Permitted or Conditional Use, is sufficiently similar to another land use so classified that it shall be treated similarly within that district. In reaching such a conclusion, the Authorized Official shall first evaluate the nature of the proposed land use, including, but not limited to, its potential generation of traffic, congestion, noise, odors, dust, litter, and similar impacts.
  - 2. In conformance with the lot, yard, and height requirements; the accessory use, parking, and sign regulations; and any other applicable requirements of the district in which the building or land use is located or proposed to be located; and
  - 3. In conformance with any federal, state, or local laws as may be applicable.
- B. All required permits shall be obtained in conformance with Chapter 14 and all other applicable building codes.
- C. One (1) principal Permitted or Conditional Use is allowed per lot in the AG and R Districts, except lots in the AG District may contain both a single family detached dwelling and agricultural uses. Each building shall meet the District's minimum setback requirements. Accessory buildings, structures, and uses are allowed in conformance with Chapter 10.01.
- D. Up to five (5) principal Permitted or Conditional Uses are allowed per lot in the CB, HC, and I Districts. Each building shall meet the District's minimum setback requirements. Accessory buildings, structures, and uses are allowed in conformance with Chapter 10.01.
- E. The density, area, width, and yard requirements are minimum standards for each and every lot existing at the effective date of this Ordinance and for any building hereafter erected or structurally altered.

- F. Every building erected, converted, moved, enlarged, reconstructed, or structurally altered after the effective date of this Ordinance shall be on a lot adjacent to a public street, or with access to an approved private drive, and all structures shall be so located on lots as to provide safe and convenient access for servicing and required off-street parking.
- G. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of this Ordinance and all requirements shall be observed as though they were under single ownership.

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

- AG Agricultural District
- R Residential District
- CB Central Business District
- HC Highway Commercial District
- I Industrial District

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

**2.04 Changes to Official Zoning Map.** Changes to or replacement of the Official Zoning Map shall require amendment of this Ordinance in conformance with Chapter 16.

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

- A. Boundaries indicated as approximately following platted lot lines or corporate limits shall be interpreted to follow such platted lot lines or corporate limits;
- B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;
- C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;
- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground differ from those shown on the Official Zoning Map, the Zoning Board of Adjustment, as established in Chapter 15, shall interpret the district boundaries; and

- E. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Planning Commission may permit, by a conditional use permit (Chapter 17), the extension of the regulations for either portion of the lot into the remaining portion of the lot.

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

## CHAPTER 3. AG: AGRICULTURAL DISTRICT

- 3.01 Purpose.** The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to protect views, to preserve natural settings for wildlife habitats, to add to the aesthetic quality of the community, and to lessen the urban density.
- 3.02 Permitted Uses.** Lots within the AG District may be used for one (1) of the following principal purposes only:
- A. Agriculture.
  - B. Cemetery.
  - C. Farmstead.
  - D. Public park, playground, trails, or swimming pool.
  - E. Undeveloped land.
- 3.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Planning Commission:
- A. Broadcast tower.
  - B. Campground.
  - C. Fairground.
  - D. Golf course, driving range, and/or country club.
  - E. House of worship.
  - F. Municipally owned wastewater treatment facility.
  - G. Public service facility owned and operated by a government entity.
  - H. Public utility facility.
  - A. Wireless communications facilities in conformance with Chapter 10.12.

- 3.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the AG District.
- 3.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the AG District shall be regulated in conformance with the provisions of Chapter 10.01.
- 3.06 Fence Regulations.** Fences within the AG District shall be regulated in conformance with the provisions of Chapter 10.03.
- 3.07 Off-Street Parking Regulations.** Off-street parking within the AG District shall be regulated in conformance with the provisions of Chapter 10.10.
- 3.08 Sign Regulations.** Signs within the AG District shall be regulated in conformance with the provisions of Chapter 10.08.
- 3.09 Lot Area, Yard, and Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the AG District shall be as follows:

A. General Requirements:

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Height</b>
<b>All uses</b>	1 acre see #1	150 ft. see #1	50 ft.	30 ft.	30 ft.	35 ft.

**Exceptions**

- #1 Unless a larger lot area and/or minimum width is required by the granting of a conditional use permit.

## CHAPTER 4. R: RESIDENTIAL DISTRICT

- 4.01 Purpose.** The purpose of this district is to provide for certain low density residential areas the City has developed primarily with single family dwellings and where similar developments are likely to occur.
- 4.02 Permitted Uses.** Lots within the R District may be used for one (1) of the following principal purposes only:
- A. Community garden.
  - B. Single-family attached dwellings.
  - C. Single-family detached dwelling.
  - D. Undeveloped land.
- 4.03 Conditional Uses.** One (1) of the following principal land uses may be allowed after review and approval of a conditional use permit by the Planning Commission:
- A. Assisted living facility or nursing home.
  - B. Cemetery.
  - C. Convent/monastery.
  - D. Day care center.
  - E. Group home.
  - F. House of worship.
  - G. Library, museum, or school.
  - H. Manufactured home in a licensed manufactured home park in conformance with Chapter 10.06.
  - I. Manufactured home park in conformance with Chapter 10.07.
  - J. Multi-family dwelling.
  - K. Public park, playground, trails, or swimming pool.
  - L. Public utility facility.

- 4.04 Prohibited Principal Land Uses.** Unless authorized pursuant to Chapter 2.01(A)(1)(a), all other principal land uses which are not specifically listed above as either a Permitted or Conditional Use shall be prohibited in the R District.
- 4.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the R District shall be regulated in conformance with the provisions of Chapter 10.01.
- 4.06 Fence Regulations.** Fences within the R District shall be regulated in conformance with the provisions of Chapter 10.03.
- 4.07 Off-Street Parking Regulations.** Off-Street parking within the R District shall be regulated in conformance with the provisions of Chapter 10.10.
- 4.08 Sign Regulations.** Signs within the R District shall be regulated in conformance with the provisions of Chapter 10.08.
- 4.09 Lot Area, Yard, and Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the R District shall be as follows:

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Height</b>
<b>Multi-family dwelling</b>	3,000 sq. ft. per unit	60 ft.	30 ft. see #5	7 ft.	25 ft.	35 ft.
<b>Single-family detached dwelling</b>	7,500 sq. ft.	75 ft. see #2, #4	30 ft. see #5	7 ft.	25 ft.	35 ft.
<b>Single-family attached dwelling</b>	3,000 sq. ft.	90 ft./ 40 ft. per unit	30 ft. see #5	7 ft. see #3	25 ft.	35 ft.
<b>Manufactured homes in licensed manufactured home parks</b>	3,500 sq. ft.	35 ft.	30 ft. see #5	7 ft.	10 ft.	35 ft.
<b>Manufactured homes in licensed manufactured home parks (corner lots)</b>	5,000 sq. ft.	50 ft.	30 ft. see #5	7 ft.	10 ft.	35 ft.

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Height</b>
<b>All other uses</b>	NA see #1	NA see #1	30 ft. see #5	7 ft.	25 ft.	35 ft.

**Exceptions**

- #1 Unless a larger lot area and/or minimum width is required by the granting of a conditional use permit.
- #2 A single-family detached dwelling may be constructed on a lot-of-record which has a lot width of less than seventy-five (75) feet, subject to applicable setback requirements.
- #3 The side yard is zero (0) feet on the party wall side of the structure.
- #4 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line; however, the minimum lot width at the right of way line shall not be less than fifty (50) feet.
- #5 There shall be a required front yard on each street side of a corner lot. Similarly, there shall be a required front yard on each street side of a double-frontage lot. In both situations, the addressed required front yard shall be thirty (30) feet; however, the other required front yard may be reduced to twenty-five (25) feet.
- #6 See also Adjustments to Yard Regulations (Chapter 11) and Non-Conforming and Non-Standard Uses (Chapter 12) for other specific exceptions.



# **CHAPTER 5. RESERVED**

# CHAPTER 6. CB: CENTRAL BUSINESS DISTRICT

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

**6.02 Permitted Uses.** Lots within the CB District may be used for up to five (5) of the following principal purposes only:

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

**6.03 Conditional Uses.** Up to five (5) of the following principal land uses may be allowed per lot after review and approval of a conditional use permit by the Planning Commission:

- A. Adult oriented business in conformance with Ordinance #7.0508.1 of the City of Alcester and SDCL 11-12 as modified herein.
- B. Mixed-use commercial/residential.
- C. Motor vehicle body shop.
- D. Public utility facility.

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

**6.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the CB District shall be regulated in conformance with the provisions of Chapter 10.01.

**6.06 Fence Regulations.** Fences within the CB District shall be regulated in conformance with the provisions of Chapter 10.03.

**6.07 Off-Street Parking Regulations.** Off-street parking within the CB District shall be regulated in conformance with the provisions of Chapter 10.10.

**6.08 Sign Regulations.** Signs within the CB District shall be regulated in conformance with the provisions of Chapter 10.08.

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

- A. The average front and rear yard setback existing on each street shall apply.
- B. There are no side yard or lot area restrictions.
- C. When abutting or adjacent to the R District, principal buildings shall have a minimum front yard of twenty (20) feet, minimum side yards of seven (7) feet, and minimum rear yard of twenty-five (25) feet.
- D. The maximum height of all buildings and structures shall not exceed forty-five (45) feet.
- E. See also Adjustments to Yard Regulations (Chapter 11) for specific exceptions.

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

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

# CHAPTER 7. HC: HIGHWAY COMMERCIAL DISTRICT

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

**7.02 Permitted Uses.** Lots within the HC District may be used for up to five (5) of the following principal purposes only:

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

- Q. Public park, playground, trails, or swimming pool.
- R. Public service facility.
- S. Retail service or trade business.
- T. Theater.
- U. Undeveloped land.

**7.03 Conditional Uses.** Up to five (5) of the following principal land uses may be allowed per lot after review and approval of a conditional use permit by the Planning Commission:

- A. Adult oriented business in conformance with Ordinance #7.0508.1 of the City of Alcester and SDCL 11-12 as modified herein.
- B. Building, construction, farm, and/or industrial equipment sales, display, service, or rental.
- C. Campground.
- D. Consumer storage building.
- E. Golf course, driving range, or country club.
- F. Kennel.
- G. Mixed-use commercial/residential.
- H. Public utility facility.
- I. Recreational facility.

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

**7.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the HC District shall be regulated in conformance with the provisions of Chapter 10.01.

**7.06 Fence Regulations.** Fences within the HC District shall be regulated in conformance with the provisions of Chapter 10.03.

**7.07 Off-Street Parking Regulations.** Off-street parking within the HC District shall be regulated in conformance with the provisions of Chapter 10.10.

**7.08 Sign Regulations.** Signs within the HC District shall be regulated in conformance with the provisions of Chapter 10.08.

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

	Lot Area	Lot Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height
All uses	NA see #1	NA see #1	30 ft. see #4	7 ft. see #2	15 ft. see #3	45 ft.

**Exceptions**

- #1 Unless a larger lot area and/or minimum width is required by the granting of a conditional use permit.
- #2 A side yard of ten (10) feet shall be required where a lot is adjacent to or abuts a residential district.
- #3 A rear yard of twenty-five (25) feet shall be required where a lot is adjacent to or abuts a residential district.
- #4 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #5 See also Adjustments to Yard Regulations (Chapter 11) for other specific exceptions.

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

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

## CHAPTER 8. I: INDUSTRIAL DISTRICT

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

**8.02 Permitted Uses.** Lots within the I District may be used for up to five (5) of the following principal purposes:

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

**8.03 Conditional Uses.** Up to five (5) of the following principal land uses may be allowed per lot after review and approval of a conditional use permit by the Planning Commission:

- A. Airport/heliport.



- B. Auto body shop.
- C. Broadcast tower.
- D. Crematory.
- E. Extraction of rock, sand, and/or gravel.
- F. General manufacturing.
- G. Machine shop or other metal working establishment.
- H. Mineral exploration and development.
- I. Motor vehicle wrecking yard, junkyard, salvage yard, or scrap processing facility.
- J. Municipally owned waste water treatment facility.
- K. Recycling collection or processing facility.
- L. Sanitary landfill and/or solid waste transfer station.
- M. Smelting or boilerworks.
- N. Tank farm/petroleum products terminal.
- O. Wireless communications facility in conformance with Chapter 10.12.
- P. Warehouse or storage house used for the warehousing or storage of hazardous products and materials.
- Q. Wholesale merchandise sales and storage house including the commercial warehousing and storage of hazardous materials either in mass or bulk.
- R. Wind energy conversion system.

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

**8.05 Accessory Buildings, Structures, and Uses.** Accessory buildings, structures, and uses permitted within the I District shall be regulated in conformance with the provisions of Chapter 10.01.

**8.06 Fence Regulations.** Fences within the I District shall be regulated in conformance with the provisions of Chapter 10.03.

- 8.07 Off-Street Parking Regulations.** Off-street parking within the I District shall be regulated in conformance with the provisions of Chapter 10.10.
- 8.08 Sign Regulations.** Signs within the I District shall be regulated in conformance with the provisions of Chapter 10.08.
- 8.09 Lot Area, Yard, and Height Regulations.** The maximum height and minimum lot area, width, and setback requirements within the I District shall be as follows:

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard Setback</b>	<b>Side Yard Setback</b>	<b>Rear Yard Setback</b>	<b>Maximum Height</b>
<b>All uses</b>	NA see #1	NA see #1	25 feet see #5	10 feet see #3	10 feet see #4	55 feet see #2

**Exceptions**

- #1 Unless a larger lot area and/or minimum width is required by the granting of a conditional use permit.
- #2 A conditional use permit will be required for any structure having a maximum height exceeding fifty-five (55) feet.
- #3 A side yard of twenty (20) feet shall be required only where a lot is adjacent to or abuts a residential district.
- #4 A rear yard of twenty-five (25) feet shall be required where a lot is adjacent to or abuts a residential district.
- #5 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #6 See also Adjustments to Yard Regulations (Chapter 11) for other specific exceptions.
- #7 Municipally owned waste water treatment facilities are exempt from minimum setback requirements.

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

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

- B. Noise. All noises and noise causing activities shall be muffled so that they will not create a disturbance in any abutting or adjacent lot zoned R, CB, or HC.
- C. Air Contaminants. Emissions of contaminants and smoke shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- D. Gasses and Odors. Emissions of gasses and odors shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state, and local regulations.
- E. Vibration. All machines, including punch presses and stamping machines, shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

# **CHAPTER 9. RESERVED**

# CHAPTER 10. ADDITIONAL USE REGULATIONS

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

- A. No building, structure, or use shall be constructed or developed on a lot prior to construction of a principal building or commencement of a principal land use.
- B. Any building or structure placed within an easement that impedes the access or intended use of that easement may be removed by the City or the City's agent at its owner's expense.
- C. Accessory buildings and structures are permitted by right in the rear yard. Any person seeking to build, construct, move, or otherwise locate an accessory building or structure in the front yard or a side yard must obtain a conditional use permit in conformance with Chapter 17.
- D. No accessory buildings or structures shall be erected or maintained which violate Chapter 10.13 – Visibility at Intersections and Driveways.
- E. Any building or structure with floor area greater than one hundred fifty (150) square feet shall be secured to the ground to prevent it from being moved or damaged by high winds typical of the area.
- F. In the R District, accessory buildings, structures, and uses are limited to the following:
  - 1. Noncommercial recreational buildings or structures including, but not limited to, tennis courts, swimming pools, barbeque pits, pergolas, greenhouses, workshops, playhouses, and gazebos.
  - 2. A private residential garage used only for the storage of noncommercial vehicles and other household items.
  - 3. Residential storage buildings including, but not limited to, garden sheds.
  - 4. Cloth, canvas, plastic sheets and tarps, and sinewave style corrugated siding are not allowed as primary materials, except greenhouses are allowed to have sheeting (glass or plastic) of prescribed building thickness as an outer covering. Sinewave style corrugated metal is not a permitted roofing material; however, ribbed style corrugated metal is allowed.

5. The architectural design of and materials used for fully enclosed accessory buildings larger than one hundred-fifty (150) square feet must be similar to the principal structure.
  6. Home occupations in conformance with Section 10.04.
  7. Bed and breakfast establishment in conformance with Section 10.02.
- G. Accessory buildings and structures may not be used for dwelling purposes.

**10.02 Bed and Breakfast Establishments.** Bed and breakfast establishments shall conform to the following standards:

- A. Bed and breakfast establishments shall be limited to single-family detached dwellings.
- B. They shall be in compliance with applicable state laws including South Dakota Department of Health regulations, maintain a guest list, and provide a smoke detector in each sleeping room.
- C. Bed and breakfast establishments shall be an accessory use with an owner-occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.
- D. Off-street parking requirements shall be one (1) space per guest room and shall be in addition to parking requirements for the residence.
- E. Meals shall be prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.

**10.03 Fences.** Fences shall conform to the following standards:

- A. No barbed wire fence shall be erected or maintained in the R and CB Districts.
- B. Exposed electrical and other abnormally dangerous fences are prohibited within all zoning districts.
- C. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.
- D. For the AG, R, and CB Districts - Fences up to eight (8) feet in height may be erected or maintained on any part of a lot other than in the front yard setback. Fences erected or maintained in the front yard setback may not exceed four (4) feet in height.

- E. For the HC and I Districts - Fences up to eight (8) feet in height may be erected or maintained on any part of the lot.
- F. No fence shall be erected which violates Chapter 10.13 – Visibility at Intersections and Driveways.
- G. To preserve the neighborhood character of the R District, fences constructed or maintained within the front yard setback shall be of a traditional open-faced design including, but not limited to, white picket, chain link, split rail, etc.
- H. Chain link fences for tennis courts, basketball courts, baseball fields, or similar outdoor recreational uses may be erected or maintained to a maximum height of twelve (12) feet provided that the area to be enclosed is not located with either the front, side, or rear yard setbacks.
- I. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.
- J. The side of the fence considered the face (facing as applied to fence post) should face abutting property.
- K. In the event a fence is to be constructed on the property line, abutting property owners shall be notified prior to the issuance of a permit. It is recommended, but not required, that the property owners sign a fence maintenance agreement and file it with the Finance Officer and Union County Register of Deeds.
- L. The installation of a fence shall be in a manner as to which access to the City for the purposes of reading or maintaining utility meters is provided.
- M. Any fence placed within an easement that impedes the access or intended use of that easement may be removed by the City or the City’s agent at its owner’s expense. No fence shall be allowed in a drainage easement unless said fence is either ninety (90) percent open or at least two (2) inches above grade. However, in all cases, no fence shall be allowed in a drainage easement if the cumulative width of the easement is greater than twenty (20) feet wide.
- N. Walls, hedges, or similar plantings and structures which create a fence effect are subject to the same regulations as fences.

**10.04 Home Occupations.** Home occupations shall conform to the following standards:

- A. Minor home occupations. All home occupations shall meet the following criteria and standards:
  - 1. The occupation shall be conducted entirely within a dwelling and must be clearly secondary to its use as a residence.

Exception: Family care occupations may extend into a connected fenced area on the same lot for outdoor recreational activities by the children.

2. The occupation shall be primarily owned and operated by one (1) member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and one (1) non-resident employee, not to exceed three (3) employees working on site at any given time. The primary owner and operator of the occupation does not count as an employee for purposes of this calculation.
4. The operation of the home occupation shall not cause or encourage excess vehicular or pedestrian traffic not ordinarily associated with the residential area in which the home occupation is conducted.
5. Merchandise offered for sale shall be clearly incidental to the home occupation provided however, that, orders may be taken for later delivery off the premises.
6. On-premises advertising shall be limited to one (1) non-illuminated sign not exceeding two (2) square feet. The legend shall show only the name of the occupant and type of occupation and shall be neutral in color.
7. Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling. No home occupation shall require external alteration of the residence or other visible evidence of the conduct of such home occupation.
8. No toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials shall be stored on site. This does not preclude any substances commonly available to consumers including, but not limited to, varnishes, paints, cleaning products, etc.
9. No activity shall be conducted which would interfere with radio or television transmission in the area, nor shall there be any offensive noise, smoke, dust, or heat noticeable beyond the premises.
10. Home occupations shall be restricted to the hours of 6:00 a.m. to 9:00 p.m.

B. Major home occupations. Any proposed home occupation which does not meet the criteria as established in Chapter 10.04(A) is deemed a major home occupation and shall require a conditional use permit in conformance with Chapter 17.



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

- A. Within any zoning district, at least ninety (90) percent of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways (see Chapter 10.12). For purposes of this Chapter, hard surfacing includes concrete, gravel, stone, and similar materials.
- B. The unpaved portion of a dedicated public right-of-way abutting any lot shall be landscaped with sod, seed, or other living ground cover.
- C. Screening: A fence, wall, or shrubbery six (6) feet in height and of a character necessary for adequate screening shall be installed or planted when a parking lot is located adjacent to residentially used property or across the right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the six (6) foot screening if they have a maximum grade of three (3) feet horizontal to one (1) foot vertical and sodded or planted with other acceptable living ground cover.
- D. Parking Lot Buffer Areas: A setback of at least five (5) feet shall be provided between a parking lot and residentially zoned property.

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

- E. Lighting Standards: When property is adjacent to or within one hundred-fifty (150) feet of residentially used or zoned property, the following lighting standards apply:
  - 1. The maximum light level shall be no greater than three (3) foot candles field measured at the property line (ground level).
  - 2. The maximum height of light luminaries shall be twenty-five (25) feet above the ground.
  - 3. Canopy luminaries and other on-site lighting with luminaries greater than two thousand (2,000) lumens shall include a ninety (90) degree cut-off type, deflector, refractor, or forward throw light fixture.
  - 4. The maximum number of canopy luminaries shall be determined by the following industry standard:

$$\frac{\text{Canopy length (in feet)} \times \text{canopy width (in feet)} \times 3}{\text{Luminaries Lamp wattage}} = \text{Maximum number of}$$

All other light luminaries shall have a maximum height of thirty-eight (38) feet above grade. Submittal of photometric plans shall be required with all site plan

checks for building projects on property with lighted parking lots or lighted canopies.

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

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

- A. The manufactured home shall meet or exceed the current federal Manufactured Home Construction and Safety Standards.
- B. Each manufactured home shall be properly secured to the ground with either a permanent foundation extending no less than four (4) feet below grade or with tie downs installed as recommended by the manufacturer. Any tie downs shall be installed prior to occupancy. In no event shall they be more than twelve (12) feet apart along the perimeter of the structure or extend down less than four (4) feet below grade.
- C. Each manufactured home shall be skirted with material approved by the Authorized Official. Skirting shall be installed prior to occupancy and in a manner recommended by the manufacturer. Skirting shall be of a material which is compatible with the appearance and condition of neighboring dwelling units. Appropriate materials shall include commercially manufactured colored steel, fiberglass, plastic, or masonry materials.
- D. Each manufactured home shall be connected to the municipal wastewater collection system and municipal water supply system.
- E. The manufactured home shall be aesthetically compatible with neighboring dwelling units, including, but not limited to, the following factors: width, length, area, number of stories, siding and roofing materials, roof style and pitch, and condition.
- F. No manufactured home to be placed within the municipal boundaries of the City may exceed ten (10) years from its date of manufacture.

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

- A. A site-plan shall be prepared showing the layout of the park, including lot lines, the road system, and spacing diagram of all buildings and structures. Upon approval of

a conditional use permit for the park, the site-plan shall be filed with the Authorized Official and govern all future development.

- B. Each park shall be a minimum of one and a half (1 1/2) acres in size.
- C. Any dwelling, structure, addition, or appurtenance thereto shall meet the minimum lot and yard requirements of the R District. These requirements may be changed as part of the conditional use permit process.
- D. Each lot shall abut or face a clear unoccupied space, roadway, or street having at least thirty-four (34) feet in width where parking is permitted on both sides; twenty-seven (27) feet in width where parking is restricted to one side only; twenty-four (24) feet in width where parking is prohibited; or be connected to such street or roadway by a private driveway not less than twelve (12) feet in width, serving no more than four lots. A hard surface material shall be used on all roadways. For purposes of this Chapter, hard surfacing includes concrete, gravel, stone, and similar materials.

#### **10.08 Sign Regulations.**

- A. Purpose. The purpose of this Chapter is to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. The sign regulations contained within this Ordinance are not intended to censor speech or to regulate viewpoints, but instead are intended to address the secondary effects of signs, specifically those that impact aesthetics, traffic, and pedestrian safety. This Chapter is not intended to regulate objects that are not traditionally considered signs for purposes of governmental regulation.
- B. General. This Chapter is designed to regulate the sign copy located on or attached to a sign structure, building, or other structure. The sign structure itself, if constructed independently of the copy, shall only require a Building Permit in conformance with Chapter 14.
- C. Sign Permit.
  - 1. Permit Required. Except as otherwise provided herein, it shall be unlawful for any person to erect, alter, relocate, or maintain any sign without first obtaining a permit from the City.
  - 2. Permit Application. An application for a sign permit shall be submitted to the Authorized Official on a form as he or she may prescribe and shall include all information as may be required for a complete understanding of the proposed sign and all other information to show full compliance with this Ordinance and all other federal, state, and local laws.

If the Authorized Official determines that the proposed sign conforms to the requirements of this Ordinance and all other federal, state, and local laws, he or she shall issue the permit as soon as practicable.

3. Validity of Permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Ordinance or of any other federal, state, or local law. Permits presuming to give authority to violate or cancel the provisions of this Ordinance or of any other federal, state, or local law shall not be valid.
4. Expiration. Every permit issued shall become invalid unless the sign authorized by such permit is completely erected, altered, or relocated within one hundred-eight (180) days after its issuance. If an inspection has not been requested after one hundred-eighty (180) days of permit issuance and the permit has not been extended, the permit shall expire without notice. The Authorized Official is authorized to grant, in writing, one (1) extension of time for a period of not more than one hundred-eighty (180) days. The extension shall be requested in writing and justifiable cause demonstrated.
5. Suspension or Revocation. The Authorized Official is authorized to suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit has been issued in error; on the basis of incorrect, inaccurate, or incomplete information; or if he or she determines that the permit was granted in violation of this Ordinance or of any other federal, state, or local law.
6. Application Fee. An application fee shall be paid to the City for each permit required by this Chapter in an amount set by resolution of the City Council. All applicable fees must be paid prior to the Authorized Official's review of the application.
7. Sign Maintenance. Maintenance of legally permitted signs or signs existing prior to the effective date of this Ordinance is allowed and shall not require a permit. Sign maintenance includes, but is not limited to, the replacement or repair of a part or portion of a sign required by wear, tear, or damage, with like material, color, and design.
8. Non-issuance Due to Existing Illegality. Unless necessary to protect the health, safety, and general welfare of the community, a permit for a new sign shall not be issued for a lot upon which there exists an illegal sign.
9. Assignment. A current and valid permit is freely assignable to a successor as owner of the lot.
10. Building Permit Not Required. If a permit has been issued pursuant to this Chapter, the applicant is not required to obtain a separate building permit in

accordance with Chapter 14. This provision is not applicable in situations where a sign structure is constructed independently or separately from the sign to be placed upon it at a later time.

D. Signs Not Regulated. The following signs may be allowed in addition to the signs permitted by this Ordinance. They do not require a sign permit, but must be in conformance with all other federal, state, and local laws.

1. Names of buildings, dates of erection, monumental citations, commemorative tablets and the like, of permanent-type construction and made an integral part of the building structure.
2. Street address or building identification signs necessary for first responders to locate the building or lot as necessary to respond to any fire or public safety emergency.
3. Signs located entirely inside of a building or other enclosed place.
4. Signs affixed to or painted on a display window.
5. Signs erected by the City or other governmental entity.
6. Signs regulated, approved, or otherwise required by state or federal agencies including, but not limited to, historical marker signs.
7. Official traffic control device signs.
8. Holiday lights and decorations displayed during the appropriate time of year.
9. National, state, or historical flags or their emblem or insignia.

E. Prohibited Signs.

1. Signs that imitate an official traffic sign or signal or that are of a size, location, movement, content, coloring, or manner of illumination that may be confused with or construed as a traffic control device.
2. Signs attached to trees, telephone poles, public benches, street lights, street signs, or placed on any public property or public right-of-way.
3. Signs which obstruct any required ingress or egress from a building or structure.
4. Abandoned signs, unsafe, signs, or signs otherwise in a state of neglect or disrepair.

5. Signs placed on vehicles or trailers which are parked or otherwise located on a lot for the primary purpose of displaying the signs.
  6. Any sign that is not protected by either federal, state, or local law.
- F. Permanent Signs. The requirements set forth herein shall apply to all permanent signs:
1. General Standards. All permanent signs shall conform to the following standards:
    - a. All signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a wall, frame, or other sign structure.
    - b. All signs shall be constructed to withstand a wind load of thirty (30) pounds per square foot.
    - c. Signs shall be maintained in a safe and legible condition at all times. Signs which are not maintained shall be deemed to be either unsafe or unlawful by the Authorized Official and shall be removed unless brought into compliance immediately upon written notice. Any expense incurred by the City during the removal of a private sign shall be the responsibility of its owner.
  2. Lots Containing a Single-Family Detached Dwelling, Single-Family Attached Dwelling, or Manufactured Home.
    - a. Each lot containing a single-family detached dwelling, single-family attached dwelling, or manufactured home may have one (1) wall or freestanding sign. One (1) additional wall sign shall be allowed if there is an approved Home Occupation. Each sign shall be a maximum of two (2) square feet in area. If placed as a freestanding sign, the sign shall not exceed two (2) square feet in height above grade.
  3. Lots Containing a Multi-Family Dwelling.
    - a. One (1) wall sign may be attached to each principal building. It shall have a maximum area of ten (10) square feet.
    - b. One (1) freestanding sign shall be permitted per lot. It shall not exceed one hundred (100) square feet in area and be taller than six (6) feet above grade.
    - c. Each individual dwelling unit within a multi-family dwelling if immediately accessed through an exterior door may have one (1)

wall or freestanding sign. One (1) additional wall sign shall be permitted for each dwelling unit if it houses an approved Home Occupation. Each sign shall have a maximum area of two (2) square feet and shall not exceed two (2) feet in height above grade if placed as a freestanding sign.

4. R District Lots Not Containing a Dwelling.

- a. One (1) wall sign may be attached to each principal building. It shall have a maximum area of ten (10) square feet.
- b. One (1) freestanding sign shall be permitted per lot. It shall not exceed one hundred (100) square feet in area and be taller than six (6) feet above grade.

5. CB and HC District Lots.

- a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed three (3) square feet per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. Roof and projecting signs may not be located higher than five (5) feet above the building's roof line.
- b. Freestanding signs shall be permitted so long as their cumulative total area per lot does not exceed one (1) square foot per one (1) foot of lineal street frontage with a total maximum of two hundred (200) square feet. They shall not be taller than eighteen (18) feet above grade in the CB District and thirty (30) feet above grade in the HC District.

6. AG and I District Lots.

- a. Wall, roof, and projecting signs shall be permitted so long as their cumulative area per lot does not exceed one (1) square foot per three (3) feet of lineal street frontage.
- b. Freestanding signs shall be permitted so long as each does not exceed one (1) square foot of area per three (3) lineal feet of street frontage. Each lot shall be limited to one (1) per street frontage except that businesses on frontages of two hundred (200) feet or more may have two (2) freestanding signs. They shall not be taller than thirty (30) feet above grade.

G. Temporary Signs. Temporary signs do not require a permit in conformance with Chapter 10.08(C), but must meet the following standards:

- 1. No sign face area shall exceed:

- a. Forty (40) square feet in the R District; or
  - b. One hundred (100) square feet in the AG, CB, HC, or I Districts.
2. Signs shall be maintained in a safe and legible condition at all times. Signs which are not maintained shall be deemed to be either unsafe or unlawful by the Authorized Official and shall be removed unless brought into compliance immediately upon written notice. Any expense incurred by the City during the removal of a private sign shall be the responsibility of its owner.
  3. Signs shall be securely attached to a sign support structure, so long as that structure is not prohibited by Chapter 10.08(E)(2).

H. Removal of Unsafe, Unlawful, or Abandoned Signs.

1. Unsafe or Unlawful Signs.

- a. Upon written notice from the City, the sign's owner shall either bring the sign into compliance with the terms of this Ordinance or remove the sign when it becomes unsafe, is in danger of falling, becomes so deteriorated that it no longer serves a useful purpose of communication, the City determines it to be a nuisance, it is deemed unsafe by the City, or it is unlawfully erected in violation of any of the provisions of this Chapter.
- b. The City may remove or cause to be removed the sign at the expense of its owner if the sign has not been brought into compliance with the terms of this Ordinance within thirty (30) days of the date of the notice. In the event of immediate danger, the City may remove the sign immediately upon the issuance of notice to its owner.

2. Abandoned Signs.

- a. It shall be the responsibility of the owner of any lot upon which an abandoned sign is located to remove such sign within one hundred-eighty (180) days of the sign becoming abandoned as defined in this Ordinance. Removal of an abandoned sign shall include the removal of the entire sign copy. If it is a temporary or portable sign, the entire sign structure shall be removed as well.
- b. Where the owner of the lot upon which an abandoned sign is located fails to remove such sign in one hundred-eighty (180) days, the City may remove such sign. Any expense directly incurred in the removal of such sign shall be charged to the owner of the lot.



**10.09 Off-Street Loading Requirements.** When any building is erected or structurally altered, off-street loading spaces for the following uses shall be provided:

Use	Gross square feet floor area	Number of Off-street loading spaces
<b>Office Buildings</b>	25,000 - 50,000 every additional 75,000	One 14' x 35' space Add one 14' x 35' space
<b>Retail, Service and Trade Establishments and Industrial and Wholesale Commercial</b>	5,000 - 20,000 20,000 - 100,000 Every additional 75,000	One 14' x 35' space Two 14' x 35' spaces Add one 14' x 35' space

**10.10 Off-Street Parking Requirements.**

- A. In the R District, no parking is permitted within the front yard except for hard-surfaced driveways or as otherwise provided in this Ordinance. For purposes of this provision, hard surfacing includes asphalt, concrete, gravel, stone, and similar materials.
  - 1. Exception: This provision may be waived on a case-by-case basis if the lot's occupant, whether owner or tenant, has obtained a Handicapped Parking Permit from the South Dakota Department of Revenue or its equivalency from another jurisdiction.
  
- B. In the R District, parking is permitted in a side yard or rear yard, provided it is not closer than two (2) feet to the property line.
  - 1. Exception: Recreational vehicles may be parked up to the property line so long as they are situated on a hard-surfaced parking pad. For purposes of this provision, hard surfacing includes asphalt, concrete, gravel, stone, and similar materials.
  
- C. Each parking space shall be directly accessible to an access lane.
  
- D. Except in conjunction with a legal nonconforming business or the performance of a service, it shall be unlawful for any person to park, store, leave, or permit the parking, storing, or leaving of any commercial vehicle with a Gross Vehicle Weight Rating (GVWR) of over ten thousand (10,000) pounds in the AG and R Districts.
  
- E. All parking, loading, and maneuvering and drive areas thereto shall be hard surfaced with asphalt, concrete, gravel, stone, and similar materials.

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

- A. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete, approved concrete products, or another commercially acceptable material suitable for the same purpose.
- B. All dwellings shall be oriented on the lot so that the primary pedestrian entrance faces the street or access easement.
- C. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. Sinewave style corrugated metal is not a permitted roofing material; however, ribbed style corrugated metal is allowed.
- D. Exterior walls shall be constructed of materials commonly used on the exterior walls of residential structures, such as: brick, concrete composite board, artificial or natural stone, exterior grade natural or composite wood, stucco, or residential lap siding made of vinyl, steel, or aluminum with no exposed fasteners.

**10.12 Wireless Communication Facilities.**

- A. Purpose. The purpose of this Chapter is to establish reasonable, uniform, and comprehensive standards and procedures wireless communication facility deployment, installation, collocation, modification, operation, relocation, and removal within the City, consistent with and to the extent permitted by federal and state law. The standards and procedures contained in this Chapter are intended to, and should be applied to, protect and promote the public health, safety, and welfare, and also balance the benefits of a robust, advanced wireless network with the City’s local values.

This Chapter is not intended to, nor shall it be interpreted or applied to:

- 1. Prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services to the community;
  - 2. Unreasonably discriminate amongst providers of functionally equivalent services;
  - 3. Deny any request for authorization to place, construct, or modify any wireless communication facility on the basis of the environmental effects of radio emissions to the extent that the facility complies with the FCC’s regulations concerning such emissions; or
  - 4. Prohibit any collocation or modification that the City may not deny under federal or state law.
- B. General. This Chapter applies to all existing wireless communication facilities within the City and all applications and requests for approval to construct, install,

modify, collocate, relocate, or otherwise deploy such facilities on privately owned lots within the City. Notwithstanding the aforementioned, the provisions of this Chapter will not be applicable to:

1. Wireless communications facilities owned and operated by the City for public purposes.
2. Any tower, or the installation of any antenna, that is forty (40) feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna.
3. Any wireless communications facility for which a permit has been properly issued that was lawfully erected prior to the effective date of this Ordinance shall not be required to meet the requirements of Chapter 10.12(C)(3) unless there has been a cessation of operations for one hundred-eighty (180) days.
4. Wireless communications facilities installed completely indoors and intended to extend signals of personal wireless services in a residence or business.

C. New Wireless Communication Facility Requests.

1. Permit Required. No new wireless communication facility shall be installed until an applicant or operator has obtained a conditional use permit, which meets the requirements of Chapter 10.12(C)(3) below.
2. Permit Application. In addition to the requirements of Chapter 17 for all conditional use permit applications, the following information is required:
  - a. Documented evidence that the applicant holds all current licenses and registrations from the FCC and any other applicable regulatory body where such license(s) and/or registration(s) are necessary to provide wireless communications services utilizing the proposed facility.
  - b. An inventory of the applicant's existing facilities that are either within the City or within one-quarter (1/4) mile of the City's boundaries, including a map showing the location of the lot that is the subject of the application. The inventory shall provide specific information about the location, height, power rating, frequency range, and design of each facility.
  - c. A list of all existing structures considered as alternatives to the proposed location, together with a general description of the site design considered at each location. The applicant must also provide a written explanation for why the alternatives considered were either

unacceptable, infeasible, unavailable, or otherwise inconsistent with the requirements of Chapter 10.12(C)(3). If an existing wireless facility is listed among the alternatives, the applicant must specifically address why the collocation or modification of that facility is not a viable option.

- d. Photographs and photo simulations showing the proposed facility superimposed on the site and surroundings from reasonable line-of-site locations from public streets or other adjacent viewpoints, together with a map that identifies that photo location of each view angle.
- e. All site plans, photographs, and photo simulations shall include a scaled depiction of the maximum permitted increase as authorized by Section 6409(a) of the 2012 Middle Class Tax Relief Act, as amended, using the proposed facility as a baseline.
- f. A written statement of the applicant's willingness to allow other carriers to collocate on the proposed facility whenever technically feasible and aesthetically desirable.

3. General Requirements. Wireless facilities shall be designed and maintained as follows:

- a. All new wireless communication facilities shall be set back at least three hundred (300) feet from a residentially zoned or used property, as measured from the base of the facility (including accessory equipment) to the property line.
- b. Wireless telecommunication towers and base stations over ninety (90) feet in height shall not be located within one-quarter (1/4) mile from any existing tower or base station that is over ninety (90) feet in height.
- c. The maximum height of wireless telecommunication towers shall not exceed one hundred (100) feet for single service providers or two hundred (200) feet for two or more service providers. If such a structure is located within an airport approach zone, Federal Aviation Administration approval will be required prior to the issuance of any permits.
- d. Roof-mounted or façade-mounted facilities shall not exceed or project more than fifteen (15) feet above the existing height of the base station.

- e. Facilities shall have subdued colors and non-reflective materials which blend with the materials and colors of the surrounding area and structures.
  - f. The facilities shall bear no signage except those required by law.
  - g. To the extent feasible and aesthetically compatible, all facilities should be designed and sited in a manner that accommodates future collocations and equipment installations that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to its outward appearance.
  - h. All cables and connectors for telephone, primary electric, and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. Meters, panels, disconnect switches, and other associated improvements must be placed in inconspicuous locations where possible. The Planning Commission shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the cost of the project.
  - i. All wireless telecommunication towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be designed in such a manner or equipped with an appropriate device to make it inaccessible for unauthorized persons to climb.
  - j. Facilities shall not be artificially lighted, unless required by the FAA or another governmental entity. If lighting is required, the Planning Commission shall review the available lighting alternatives and approve the design that would cause the least disturbance to adjacent and abutting lots.
4. Application Review. Each conditional use permit application shall be submitted to the Zoning Administrator. Under federal law, the Zoning Administrator, within thirty (30) days of the receipt of the application, shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Zoning Administrator informs the applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the applicant provides the requested information.

If the application is deemed incomplete, an applicant may submit additional materials to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application.

After meeting with the applicant, the Zoning Administrator shall review the substantive contents of the application and make a recommendation to the Planning Commission to either approve or deny the application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justifications for either approval or denial of the application.

The Zoning Administrator shall set the date, time, and place for a public hearing to be held by the Planning Commission. No less than ten (10) days prior to the scheduled public hearing, the Zoning Administrator shall notify the landowner and applicant by mail, post notices at Alcester City Hall and the lot affected by the proposed conditional use permit, and publish notice of the public hearing in the legal newspaper of the City.

The public hearing shall be held. Any applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

The Planning Commission with an affirmative vote of a majority of its members, may grant the conditional use permit with such conditions and safeguards as are appropriate to protect the health, safety, and welfare of the community. The decision of the Planning Commission shall be filed unless an appeal is filed in conformance with Chapter 17.06.

The Planning Commission shall either issue the conditional use permit or issue a written statement of denial within one hundred fifty (150) days of the submission of the initial application unless:

- a. The Zoning Administrator notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred fifty (150) day total review time is tolled until the applicant provides the missing information; or
- b. An extension of time is agreed to by the applicant and City.

Failure to approve the conditional use permit or issue a written denial within one hundred fifty (150) days shall constitute an approval of the application.

5. Findings Required for Approval. The Board of Adjustment shall not grant the conditional use permit unless it finds as follows:

- a. All applicable requirements of Chapters 17 and 10.12(C)(3) are met; or
- b. The applicant has demonstrated by clear and convincing evidence that the facility is necessary to close a significant gap in the service

provider's coverage. Such evidence shall include in-kind call testing of existing facilities within the area the applicant contends is a significant gap in coverage to be served by the facility; and

- c. The applicant has demonstrated by clear and convincing evidence that no feasible alternative site exists that would close a significant gap in the service provider's coverage which alternative site is a more appropriate location for the facility under the standards.

D. Mandatory Collocation or Modification Requests.

1. Purpose. This Section is intended to comply with the City's obligations under federal law, which provides that the City "may not deny, and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." (47 U.S.C. § 1455, subd. (a)(1), adopted as Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156.) This Section creates a process for the City to review an application for a wireless facility minor modification permit submitted by an applicant who asserts that a proposed collocation or modification to an existing personal wireless communications facility is covered by federal law and to determine whether the City must approve the proposed collocation or modification. The City's review of these applications is structured to comply with the requirements of 47 U.S.C. § 1455 and the FCC's regulations implementing this federal law, adopted on December 17, 2014 and codified at 47 C.F.R. §§ 1.40001, et seq. This Section is intended to promote the public health, safety, and welfare, and shall be interpreted consistently with the Telecommunications Act of 1996 (Pub. L. No. 104-104, 110 Stat. 56), Title 47 U.S.C. § 1455, and all applicable FCC regulations and court decisions considering these laws and regulations.

2. Minor Modification Permit.

- a. Permit Required. An applicant seeking approval of a collocation or modification to an existing wireless communications facility which he or she contends is within the protection of 47 U.S.C. § 1455 shall apply for a Minor Modification Permit. No collocation or modification to an existing wireless communications facility shall be installed unless the applicant obtains the permit.
- b. Permit Application. All applications for a minor modification permit must include the following items:
  - (1) Legal description and/or address of the lot upon which the existing facility is located.

- (2) Name, address, and phone number of the owner of the lot which is the subject of the application.
- (3) Name, address, and phone number of the owner of the existing facility.
- (4) Name, address, and phone number of the applicant, if different than the owner of the existing facility.
- (5) The zoning district and principal land use classification(s) under which the lot is regulated at the time of the application.
- (6) A site plan of sufficient clarity to indicate the location, nature, and extent of the building or work proposed. Where applicable, all site plans shall contain the following information:
  - (a) The legal description or address of the lot shown on the site plan.
  - (b) A north arrow.
  - (c) All existing and proposed buildings, structures, or additions thereto, with information regarding their dimensions, height, and number of stories.
  - (d) Distance from all building lines to the property lines at the closest points.
  - (e) Dimensions of all property lines.

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

- (7) Be signed by the applicant, who may be required to submit evidence to indicate such authority if the lot has more than one owner.
- (8) Any other information concerning the lot or the proposed work as may be requested by the Authorized Official.

c. Application Review. Each application for a minor modification permit shall be reviewed by the Authorized Official. Under federal law, the Authorized Official, within thirty (30) days of receipt of the application, shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet



the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Authorized Official informs the applicant of an incomplete application within thirty (30) days, the overall timeframe for review is tolled until such time the applicant provides the requested information.

If the application is deemed incomplete, an applicant shall submit the missing materials to the Authorized Official within sixty (60) business days after receipt of the written notice. Failure to complete the application within that timeframe shall constitute a withdrawal of the application.

The Authorized Official must approve or deny an application for a minor modification permit, together with any other City/Town permits required for a proposed collocation or modification to an existing facility, within sixty (60) days after the applicant submits the application, unless tolled due to issuance of any notice of incomplete filing or by mutual agreement between the City and the applicant. Under federal law, failure to act on a minor modification permit within the sixty (60) day review period, excluding tolling period, will result in the permit being deemed granted by operation of law.

d. Findings Required for Approval.

- (1) Existing Towers. The Authorized Official shall approve an application for a minor modification permit for a collocation or modification to an existing wireless communications tower located on a privately-owned lot only if the following findings can be made:
  - (a) The applicant proposes a collocation or modification to a structure constructed and maintained with all necessary permits in good standing for the sole and primary purpose of supporting any FCC licensed or authorized facilities;
  - (b) The proposed collocation or modification does not increase the height of the facility above its lowest height on the effective date of this Ordinance or as approved if constructed after the effective date of this Ordinance by more than ten percent (10%) or by the height or one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;

- (c) The proposed collocation or modification does not increase the width of the facility by more than twenty (20) feet or the width of the tower at the level of the appurtenance, whichever is greater;
  - (d) The proposed collocation or modification does not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4);
  - (e) The proposed collocation or modification does not involve any excavation outside the leased or licensed area of the facility, including any access or utility easements;
  - (f) The proposed collocation or modification does not defeat any existing concealment elements of the facility; and
  - (g) The proposed collocation or modification does not violate any prior conditions of approval, except as may be preempted by Section 6409, 47 U.S.C. 1455(a).
- (2) Existing Base Stations. The Authorized Official shall approve an application for a minor modification permit for a collocation or modification to an existing base station on private property only if each of the following findings can be made:
- (a) The applicant proposes a collocation or modification to a base station constructed and maintained with all necessary permits in good standing, regardless of whether it was built for the sole or primary purpose of supporting any FCC licensed or authorized facilities, that currently supports existing facilities;
  - (b) The proposed collocation or modification does not increase the height of the existing facility above its lowest height on the effective date of this Ordinance or as approved if constructed after the effective date of this Ordinance by more than ten percent (10%) or ten (10) feet, whichever is greater;
  - (c) The proposed collocation or modification does not increase the width of the facility by more than six (6) feet;

- (d) The proposed collocation or modification does not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4);
  - (e) The proposed collocation or modification does not involve any excavation outside the leased or licensed area of the facility, including any access and utility easements;
  - (f) The proposed collocation or modification does not defeat any existing concealment elements of the existing facility; and
  - (g) The proposed collocation or modification does not violate any prior conditions of approval, except as may be preempted by Section 6409, 47 U.S.C. 1455(a).
- e. Permit Denial. An application for a minor modification permit may be denied if the Authorized Official determines the proposed collocation or modification does not qualify for mandatory approval under 47 U.S.C. 1455, as amended, and as may be interpreted by any order of the FCC or any court of competent jurisdiction.

E. Non-Mandatory Collocation or Modification Requests.

- 1. Permit Required. All collocations or modifications to an existing wireless facility that do not meet the findings of approval required for a minor modification permit in conformance with Chapter 10.12(D)(2)(d) shall require the approval of a conditional use permit, which meets the requirements of Chapter 10.12(E)(3) below.
- 2. Permit Application. In addition to the requirements of Chapter 17 for all conditional use permit applications, the following information is required:
  - a. Documented evidence that the applicant holds all current licenses and registrations from the FCC and any other applicable regulatory body where such license(s) and/or registration(s) are necessary to provide wireless telecommunications services utilizing the proposed facility;
  - b. An inventory of the applicant's existing facilities that are either within the City or within one-quarter (1/4) mile of the City's boundaries, including a map showing the location of the specific site that is the subject of the application. The inventory shall provide

specific information about the location, height, power rating, frequency range, and design of each facility.

- c. Photographs and photo simulations showing the proposed facility superimposed on the site and surroundings from reasonable line-of-sight locations from public streets or other adjacent viewpoints, together with a map that identifies the photo location of each view angle.

3. General Requirements. Collocations and modifications to existing wireless facilities not protected by 47 U.S.C. § 1455 shall be designed and maintained as follows:

- a. All new facilities shall be set back at least three hundred (300) feet from a residentially zoned or used property, as measured from the base of the facility (including accessory equipment) to the property line.
- b. Base stations located over ninety (90) feet in height above grade shall not be located within one-quarter (1/4) mile from any existing tower or base station that is over ninety (90) feet in height.
- c. The maximum height of wireless telecommunication towers shall not exceed one hundred (100) feet for single service providers or two hundred (200) feet for two or more service providers. If such a structure is located within an airport approach zone, Federal Aviation Administration approval will be required prior to the issuance of any permits.
- d. Roof-mounted or façade-mounted facilities shall not exceed or project more than fifteen (15) feet above the existing height of the base station.
- e. Facilities shall have subdued colors and non-reflective materials which blend with the materials and colors of the surrounding area and structures.
- f. The facilities shall bear no signage except those required by law.
- g. To the extent feasible and aesthetically compatible, all facilities should be designed and sited in a manner that accommodates future collocations and equipment installations that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to its outward appearance.

- h. All cables and connectors for telephone, primary electric, and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. Meters, panels, disconnect switches, and other associated improvements must be placed in inconspicuous locations where possible. The Planning Commission shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the cost of the project.
  - i. All wireless telecommunication towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be designed in such a manner or equipped with an appropriate device to make it inaccessible for unauthorized persons to climb.
  - j. Facilities shall not be artificially lighted, unless required by the FAA or another governmental entity. If lighting is required, the Planning Commission shall review the available lighting alternatives and approve the design that would cause the least disturbance to adjacent and abutting lots.
4. Application Review. Each conditional use permit application for a non-mandatory collocation or modification request shall be submitted to the Authorized Official. Under federal law, the Authorized Official, within thirty (30) days of the receipt of the application, shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and meet with the applicant. If the Authorized Official informs the applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time that the applicant provides the requested information.

If the application is deemed incomplete, an applicant may submit additional materials to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal of the application.

After meeting with the applicant, the Authorized Official shall review the substantive contents of the application and make a recommendation to the Planning Commission to either approve or deny the application. The Authorized Official's recommendation shall include a summary of the application, and the reasons and justifications for either approval or denial of the application.

The Authorized Official shall set the date, time, and place for a public hearing to be held by the Planning Commission. No less than ten (10) days prior to the scheduled public hearing, the Authorized Official shall notify the landowner and applicant by mail, post notices at Alcester City Hall and

the lot affected by the proposed conditional use permit, and publish notice of the public hearing in the legal newspaper of the City.

The public hearing shall be held. Any applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

The Planning Commission with an affirmative vote of a majority of its members, may grant the conditional use permit with such conditions and safeguards as are appropriate to protect the health, safety, and welfare of the community. The decision of the Planning Commission shall be filed unless an appeal is filed in conformance with Chapter 17.06.

The Planning Commission shall either issue the conditional use permit or issue a written statement of denial within ninety (90) days of the submission of the initial application unless:

- a. The Authorized Official notified applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the ninety (90) day total review time is tolled until the applicant provides the missing information; or
- b. An extension of time is agreed to by the applicant and City.

Failure to approve the conditional use permit or issue a written denial within ninety (90) days shall constitute an approval of the application.

5. Findings Required for Approval. The Planning Commission shall not grant the conditional use permit unless it finds as follows:

- a. All applicable requirements of Chapters 17 and 10.12(E)(3) are met; or
- b. The applicant has demonstrated by clear and convincing evidence that the facility is necessary to close a significant gap in the service provider's coverage. Such evidence shall include in-kind call testing of existing facilities within the area the applicant contends is a significant gap in coverage to be remedied by the facility; and
- c. The applicant has demonstrated by clear and convincing evidence that no feasible alternative exists that would close the significant gap in the service provider's coverage that would be a more appropriate location or design for the facility under the standards prescribed above.

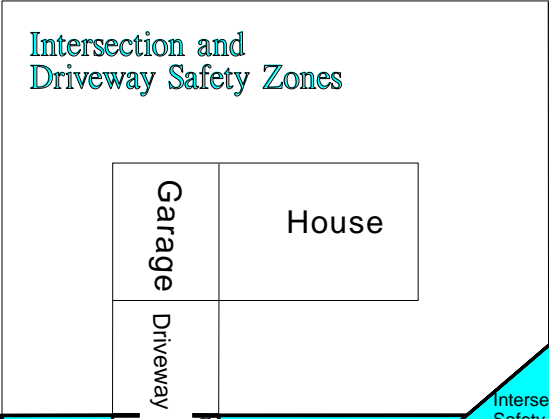
- F. Operation and Maintenance Standards. All facilities shall comply with the following operation and maintenance standards:
1. Facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment no later than forty-eight (48) hours from the time of notification by the City.
  2. Except for emergency repairs, all testing and maintenance activities that will be audible beyond the lot line shall only occur between the hours of 7:00 a.m. and 7:00 p.m., excluding holidays.
- G. Permit Fees. A permit fee shall be paid to the City for each permit required by this Chapter in an amount set by resolution of the City Council. All applicable fees must be paid prior to the issuance of a permit.
- H. Financial Assurance. Prior to obtaining a building permit to erect or install the proposed wireless facility, the applicant shall secure a bond or provide financial assurances, in a form acceptable to the Authorized Official, for the removal of the facility in the event that its use is abandoned or the approval is otherwise terminated.
- I. Removal of Abandoned Facility. Any wireless telecommunication facility that has not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon making the determination that the facility has been abandoned, the Authorized Official shall notify its owner that it shall be removed within ninety (90) of receipt of the notice. Failure to remove an abandoned facility within said ninety (90) days shall result in the City removing it at its owner's expense. If there are two (2) or more users of a single facility, this provision shall not become effective until all users have abandoned the facility.

### **10.13 Visibility at Intersections and Driveways.**

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

vision exceeding three (3) feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten (10) feet behind the curb line. (See Figure 1)

Figure 1





# CHAPTER 11. ADJUSTMENTS TO YARD REGULATIONS

- 11.01 Adjustment to Front Yard Requirements.** Where existing adjacent principal buildings have a front yard setback less than required by this Ordinance, any lot's front yard setback may be adjusted to the average of those abutting and adjacent principal buildings' front yards so long as they are located on same side of the street.
- 11.02 Adjustment to Side Yard Requirements.** Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.
- 11.03 Projection from Buildings.** Every part of any required yard shall be open to the sky and unobstructed except:
- A. Awnings, canopies, eaves, and similar projections may extend into a front, side, or rear yard.
  - B. Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features which may project twelve (12) inches.
  - C. Air conditioners may project into a required side or rear yard setback.
  - D. Solar collectors, which are a part of the principal building, may project no more than ten (10) feet into a required rear yard.
  - E. An open, unenclosed, and uncovered porch, deck, balcony, or other similar structure may project into a required front yard for a distance not exceeding ten (10) feet. However, any such structure which is fully enclosed shall be treated as if it is part of the principal building and must comply with the District's setback requirements.
  - F. Terraces, uncovered porches, platforms, decks, ornamental features, and other structures which do not extend above ground level may project into a required yard, provided these projections be at least two (2) feet from the adjacent side or rear lot line(s).

## CHAPTER 12. NON-CONFORMING USES AND NON-STANDARD LOTS

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

- A. Whenever a non-conforming use has been changed to a conforming use, it shall not be allowed to covert back to a non-conforming use.
- B. Should any non-conforming building or structure be destroyed by any means to the extent of more than fifty (50) percent of its replacement cost, it shall not continue.
- C. When a non-conforming use is discontinued for a period of one (1) year, the City Council may adopt, after notice by mail or hand delivery to the property owners, an amortization schedule to bring about the gradual elimination of such non-conforming use.
- D. Any non-conforming use may be extended throughout any part of a building or structure which was arranged or designed for such use prior to the adoption of this Ordinance, but shall not be extended outside such building or structure.
- E. An existing non-conforming building or structure shall not be enlarged, moved, or structurally altered except to change to an authorized Permitted or Conditional Use. This does not include normal repairs and maintenance which do not enlarge, move, or structurally alter the non-conforming building or structure.

**12.02 Continuation of Non-Conforming Buildings and Structures.** Non-conforming uses existing immediately prior to the effective date of this Ordinance may be continued, although such uses do not conform to the provisions hereof. Non-standard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

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

**12.03 Merger of Non-Standard Lots.** If two (2) or more contiguous lots are held in common ownership at the time of or since the effective date of this Ordinance, they shall be replatted into one (1) lot to the extent necessary to meet the zoning district's minimum lot and yard requirements if: (1) all share the same zoning district classification; (2) any of the lots do not individually meet the minimum lot and yard requirements of the zoning district in which they are located; and (3) any of the lots are vacant or contain no principal building(s) or structure(s).

**12.04 Merger of Simultaneously Improved lots.** When improvements, requiring a building permit, are proposed which span, extend across, or encompass two (2) or more contiguous lots held in common ownership, said lots shall be replatted into one (1) lot.

## **CHAPTER 13. ADMINISTRATION AND ENFORCEMENT**

**13.01 Powers and Duties.** The Authorized Official is hereby authorized and directed to interpret and enforce all the provisions of this Ordinance and establish rules for its administration. Such interpretations shall at all times be consistent with its intent and purpose, and be set forth in writing. Additionally, the Authorized Official may appoint or solicit technical advice, inspectors, municipal officials, and other municipal employees to assist with the administration of this Ordinance. With approval of the City Council, the Mayor shall appoint the Authorized Official.

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

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

**13.03 Stop Order.** Whenever any work or other action is performed in a manner contrary to the provisions of this Ordinance, the Authorized Official may order the work or other action stopped by notice in writing served on any person engaged in the doing or causing such work or other action to be done, and any such persons shall forthwith stop such work or other action until authorized by the Authorized Official to proceed accordingly.

# CHAPTER 14. BUILDING AND ZONING PERMITS

## 14.01 Building Permits

- A. Permit Required. It shall be unlawful for any person, firm, or corporation to erect, construct, change, enlarge, improve, move, or otherwise physically alter any building or structure regulated by this Ordinance or cause the same to be done without first obtaining a separate building permit for each building or structure from the Authorized Official.
  
- B. Application. To obtain a building permit, the applicant shall file an application with the Authorized Official on a form as provided. Every application shall contain the following information:
  - 1. Legal description or address of the lot for which the building permit is requested.
  - 2. Name, address, and telephone number of every owner of the lot for which the building permit is requested.
  - 3. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
  - 4. A description of the work to be covered by the permit for which the application is made.
  - 5. A site plan in conformance with Chapter 14.03.
  - 6. Be signed by the applicant, who may be required to submit evidence to indicate such authority if the lot has more than one owner.
  - 7. Any other information concerning the lot or the proposed work as may be requested by the Authorized Official.

## 14.02 Zoning Permits.

- A. Permit Required. It shall be unlawful for any person, firm, or corporation to change the principal land use of any lot, building, or structure regulated by this Ordinance, or cause the same to be done, without first obtaining a zoning permit for the land use change from the Authorized Official.
  
- B. Application. To obtain a zoning permit, the applicant shall file an application with the Authorized Official on a form as provided. Every application shall contain the following information:

1. Legal description or address of the lot for which the change of land use is requested.
2. Name, address, and phone number of every owner of the lot for which the change of land use is requested.
3. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
4. The principal land use classification(s) requested by the application.
5. A site plan in conformance with Chapter 14.03.
6. Be signed by the applicant, who may be required to submit evidence to indicate such authority if the lot has more than one owner.
7. Any other information concerning the lot, its current principal land use(s), or requested principal land use(s) as may be required by the Authorized Official.

**14.03 Information on Site Plan.** Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapters 14.01 and 14.02 shall contain the following information:

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

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

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

**14.04 Issuance of Permits.** Once filed pursuant to Chapters 14.01 or 14.02, the application for a permit shall be reviewed by the Authorized Official. In doing so, he or she may solicit technical advice from inspectors, municipal officials, and other municipal employees to verify compliance with any applicable laws or requirements under their jurisdiction. If he

or she determines that said application meets to the requirements of this Ordinance and other pertinent laws and ordinances, and that the fees specified in Chapter 18 have been paid, he or she shall issue the permit.

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

**14.05 Validity of Permit.** The issuance or granting of a permit or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Ordinance or of any other ordinance of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of this Ordinance shall be invalid.

**14.06 Expiration.** Every permit issued under the provisions of this Ordinance shall expire by limitation and become null and void if the building, work, or use authorized by such permit is not commenced within ninety (90) days from the date of issuance thereof, or if the building, work, or use authorized by such permit has not been substantially completed within one (1) year of the date of issuance thereof. Written notice of the permit's expiration shall be provided to the applicant either by mail or hand delivery, together with a statement that further work or the use described in the permit shall not proceed unless and until a new permit has been obtained.

The Authorized Official may, except as otherwise provided herein, extend the duration of a permit for a period not exceeding one hundred-eighty (180) days upon written request by the permittee showing that circumstances beyond his or her control have prevented the work or changes of use from taking place.

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

# CHAPTER 15. ZONING BOARD OF ADJUSTMENT

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

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

- A. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Authorized Official in the enforcement of this Ordinance.
- B. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Planning Commission either in the issuance or the failure to issue a conditional use permit in conformance with Chapter 17.
- C. To hear and decide upon petitions for variances to alter the strict application of the height, area, setback, yard, parking, or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.

**15.03 Appeal Procedure.**

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



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

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

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

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

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

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

## **CHAPTER 16. AMENDMENTS AND CHANGE OF ZONE**

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

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

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

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

- A. The address of the lot or its legal description.
- B. A north arrow.
- C. All existing and proposed buildings or additions.
- D. Dimensions of all buildings.
- E. Distance from all building lines to the property lines at the closest points.
- F. Building height and number of stories.

G. Dimensions of all property lines.

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

**16.04 Fees.** Upon the filing of any application for an amendment or change of zone with the Authorized Official, the applicant shall pay the City of Alcester the appropriate fee in conformance with Chapter 18.

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

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

- G. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect twenty (20) days after the date of publication in a legal newspaper of the City, unless the referendum shall have been invoked.

# CHAPTER 17. CONDITIONAL USE PERMITS

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

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

- A. Legal description or address of the lot on which such conditional use is requested.
- B. Name, address, and phone number of the owner of the lot which is the subject of such application.
- C. The district and principal land use classification(s) under which the lot is regulated at the time of the application.
- D. The principal land use classification(s) requested by the application.
- E. A site plan in conformance with Chapter 17.04.
- F. Any other information concerning the lot as may be requested by the Authorized Official.

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

**17.04 Information on Site Plan.** Plans of sufficient clarity to indicate the location, nature, and extent of the work proposed shall be provided to the Authorized Official. Where applicable, all site plans required in Chapter 17.02(E) shall contain the following information:

- A. The address of the lot or its legal description.
- B. The name of the project and/or business.
- C. A north arrow.
- D. All existing and proposed buildings or additions.
- E. Dimensions of all buildings.

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

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

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

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

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

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

- A. The public hearing shall be held. Any person or persons may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- B. Before any conditional use permit shall be granted, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has

been made concerning the following, where applicable:

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

The Planning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of this Ordinance. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Chapter 17.06.

**17.06 Appeal of Planning Commission Decision.** The decision rendered by the Planning Commission on a conditional use permit may be appealed to the Zoning Board of Adjustment in conformance with Chapter 15.03.

**17.07 Expiration.** A conditional use permit shall expire one (1) year from the date upon which it becomes effective if the use or uses have not commenced operations. Upon written request to the Authorized Official and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use permit may be granted by the Authorized Official, subject to the following conditions:

- A. There was no public objection presented during the public hearing process for the original conditional use permit.



B. The land uses for the surrounding lots have not significantly been altered since the original approval date for the conditional use permit.

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

## CHAPTER 18. FEES

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

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

# CHAPTER 19. DEFINITIONS

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

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

## **19.02 Definitions.**

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

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

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

**ADULT BOOKSTORE OR VIDEO STORE** - A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

- (1) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes, or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.

- (2) Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.

**ADULT ORIENTED BUSINESS** - Commercial retail or service businesses including, but not limited to, adult arcades, adult bookstores or video stores, adult cabarets, adult massage parlors, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter studios, or any combination of the aforementioned as defined by SDCL 11-12-1 or as modified herein. All adult oriented businesses shall comply with SDCL 11-12.

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

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

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

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

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

**ANTENNA SUPPORT STRUCTURE** – See “Base Station”.

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

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

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

**BASE STATION** - Any existing structure that supports wireless communication facilities such as, but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples, and light poles.

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

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

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

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

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

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

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

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

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

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

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

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

**CITY** - City of Alcester, South Dakota.

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

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

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

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

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

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

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

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

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

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

CONTAMINANT - Any “regulated substance,” as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this Ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

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

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

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

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

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

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

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

**DAY CARE, FAMILY** - Care is provided in a dwelling. The number of persons cared for is limited to a maximum of twelve (12) adults or children. Included in that count are the providers' own children six years and under. See (Home Occupation).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**LOT, TRIPLE FRONTAGE** - A lot which abuts a street on three sides (not a corner lot).

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

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

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

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

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

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

**MOTOR VEHICLE, INOPERABLE** - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

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

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

**MOTOR VEHICLE SALES, DISPLAY, SERVICE, AND/OR RENTAL** - The use of any building, land area, or lot, for the display, sale, or rental of new or used motor vehicles, and including any warranty repair work and other repair service conducted as an accessory use. The

sale or display of inoperable motor vehicles is not allowable as part of this use category, see “JUNKYARD.”

**MOTOR VEHICLE SERVICE STATION** - Any building, or portion thereof, which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

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

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

**NON-STANDARD LOT** - Any lot lawfully existing prior to the adoption, revision, or amendment of this Ordinance that fails to comply with its zoning district’s minimum lot area and/or lot width requirements.

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

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

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

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

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

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

**PERMANENT FOUNDATION** - A continuous foundation around the perimeter of a structure, which, at bottom, extends no less than forty-eight (48) inches below the surface of the ground.

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

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

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

**PRINCIPAL BUSINESS PURPOSE** - In relation to the definition of “Adult Bookstore or Video Store”, this shall mean an establishment having more than five percent (5%) of its stock and trade, books, magazines, periodicals, recordings, and other materials which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined by State law, or an establishment with a segment or section specifically devoted to the sale or display of such materials.

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

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

**PROPERTY LINE** - See (Lot Line).

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

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

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

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

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

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

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

**RESIDENCE** - A permanent dwelling place.

**RETAIL SERVICE OR TRADE BUSINESS** – Commercial establishment engaged in selling products, goods, or merchandise to the general public for personal or household consumption and establishments engaged in providing services or entertainment to the general public including, but not limited to, restaurants, arcades, repair shops, gyms, health spas, grocery stores, and sporting goods stores.

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

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

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

**SIGN** - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object,

person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**TRAVEL TRAILER** - Means any of the following:

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

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

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

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

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

**WASTE** - Any garbage, refuse, sludge from a waste treatment plant, waste supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or



contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

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

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

**WIRELESS COMMUNICATIONS FACILITIES** - Any cables, wires, lines, wave guides, antennas, antenna arrays, and any other equipment associated with the transmission or reception of telecommunications signals which a person seeks to locate or have installed upon or near a wireless communications tower or base station. Based on the context, the term “wireless communications facility” may refer to the wireless communications tower or base station itself.

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

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

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

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

**YARD LINE** - See (Building Line).

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

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

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

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

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

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

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