

## CHAPTER 3: DEFINITIONS

Section

II-3.001 Definitions

### § II-3.001 DEFINITIONS.

(A) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

(B) The word shall is mandatory; the word may is permissive.

(C) The words used or occupied include the words intended, designed, or arranged to be used or occupied.

(D) For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADMINISTRATIVE OFFICIAL.** The Planning & Zoning Director and his or her designee charged with the administration and enforcement of this title.

**ADMINISTRATOR.** See **DIRECTOR**.

#### **ADULT USE DEFINITIONS:**

**ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five and fewer persons per machine at anyone time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE.**

(a) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

(b) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an **ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE**. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an **ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. A "principal business purpose" is defined as a substantial or significant portion of its stock or trade for sale or rental, and characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**ADULT CABARET.** A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear seminude.

**ADULT MOTEL.** A hotel, motel, or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(b) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

**ADULT MOTION PICTURE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT ORIENTED BUSINESS.** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, or nude model studio.

**ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or seminude, or live performances which are characterized by an emphasis on the exposure of

specified anatomical areas or by specified sexual activities.

**EMPLOYEE.** A person who performs any service on the premises of an adult oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**ESCORT.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**ESTABLISHMENT.** Means and includes any of the following:

- (a) The opening or commencement of any adult oriented business as a new business;
- (b) The conversion of an existing business, whether or not an adult oriented business, to any adult oriented business;
- (c) The additions of any adult oriented business to any other existing adult oriented business; or
- (d) The relocation of any adult oriented business.

**LICENSEE.** A person in whose name a license to operate an adult oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

**NUDITY or A STATE OF NUDITY.** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the covered male genitals in a discernibly turgid state.

**SEMINUDE or IN A SEMINUDE CONDITION.** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

**SEMINUDE MODEL STUDIO.** Any place where a person who appears seminude, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. **NUDE MODEL STUDIO** shall not include a proprietary school licensed by the state or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure: that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one nude or seminude model is on the premises at any one time.

**PERSON.** As it relates to adult use, a **PERSON** is an individual, proprietorship, partnership, corporation, association, or other legal entity.

**REGULARLY FEATURED or REGULARLY SHOWN.** A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

**SPECIFIED ANATOMICAL AREAS.** The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

**SPECIFIED CRIMINAL ACTIVITY.** Any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; unlawful gambling; or distribution of a controlled substance;

(b) For which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

**SPECIFIED SEXUAL ACTIVITIES.** Any of the following:

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- (c) Excretory functions as part of or in connection with any of the activities set forth in divisions (a) and (b) above.

**SUBSTANTIAL ENLARGEMENT OF AN ADULT ORIENTED BUSINESS.** The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.

**TRANSFER OF OWNERSHIP OR CONTROL OF AN ADULT ORIENTED BUSINESS.** Means and includes any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**AGRICULTURAL TOURISM.** Agriculturally related accessory uses, that are subordinate to the growing of crops or the raising of livestock, designed to bring the public to the farm on a temporary or continuous basis, such as U-pick farm sales, farm stands, farm mazes, pumpkin patches, farm animal viewing and petting, wagon rides, thrashing bees, farmland and activities tours, horticulture nurseries and associated display gardens, cider pressing, classes or workshops, wine or cheese tasting, and similar uses.

**AGRICULTURAL TOURISM PRODUCTS.** Includes, but is not limited to: crops (to include corn, wheat, hay, and vegetables); fruit (to include apples, peaches, grapes, cherries, and berries); cider; apiary products; floriculture; herbs; forestry; husbandry; and livestock products.

**AGRICULTURAL TOURISM PRODUCT(S) STAND.** A roadside stand or the like located on a parcel of land which is providing agricultural tourism products.

**AGRICULTURAL TOURISM SEASONAL PERMIT.** This permit shall provide for special uses which help to promote and maintain local agricultural tourism operations located along the Lower/Upper Valley areas near the city limits of Spearfish. No person shall operate an agricultural tourism business without first obtaining a permit from the Lawrence County Planning and Zoning Department or County Commission.

**AGRICULTURAL TOURISM SPECIAL EVENT.** An activity, involving more than 100 people, that is desirable but unrelated to agriculture, which is held on active, agriculturally productive land in conjunction with agricultural tourism. **SPECIAL EVENTS** are open to the public and include festivals, craft shows, and other similar events. Music festivals and/or outdoor concerts are not **SPECIAL EVENTS** and require temporary use permit approval.

**AGRICULTURE.** The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, viticulture, and the necessary accessory uses for packaging, treating, or storing the produce providing that the operations of any such accessory use shall be secondary to the normal agricultural activities. This definition shall not include intensive agricultural activities such as concentrated animal feeding operations and agribusiness activities.

**APPEAL.** A request for a review of the Planning and Zoning Director's interpretation of any provisions of this title or a request for a variance.

**APPLICANT.** The owner of land or a representative as evidenced by written consent from the legal owner of the premises.

**ASSEMBLY.** A gathering together of people at any location, at any single time, for any purpose.

**BED AND BREAKFAST.** As defined by SDCL § 34-18-9.1.

- (1) **BED AND BREAKFAST ESTABLISHMENT.** Any building or buildings run by an operator which is used to provide accommodations for a charge to the public, with at most five rental units for up to an average of ten guests per night and in which family style meals are provided.
- (2) **FAMILY STYLE MEAL.** Any meal ordered by persons staying at a bed and breakfast establishment which is served from common food service containers, as long as any food not consumed by those persons is not reused.
- (3) **OPERATOR.** Means the owner or the owner's agent, who is required to reside in the bed and breakfast establishment or on contiguous property.

**BOARD.** The Planning and Zoning Board of Lawrence County, South Dakota.

**BOARD OF ADJUSTMENT.** The **BOARD OF ADJUSTMENT** shall be appointed by the Lawrence County Commission. The **BOARD OF ADJUSTMENT** may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances, and hear appeals to the terms of these regulations in harmony

with the general purpose and intent and in accordance with general and specific rules herein contained.

***BOUNDS DESCRIPTION.*** Adjoiner or monument on each side of the described area.

***BUILDABLE AREA.*** The portion of a lot remaining after required yards or setback allowances have been provided.

~~***CAMPGROUND.*** A lot that is used or is intended to be used for occupancy by tents and all types of recreational vehicles, including tent trailers, for transient dwelling purposes.~~

SDCL 34-18-1 a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public to be a place where camping units can be located and occupied as temporary living quarters for children or adults, or both. Camping units are considered to be trailers, tent campers, campers, tents, recreational park trailers, or other equipment that may be used by the public at individual campsites located at campgrounds or areas used by the public as campgrounds.

~~***TEMPORARY CAMPGROUND.*** A lot that is used or is intended to be used for occupancy by tents and all types of recreational vehicles, including tent trailers, for transient dwelling purposes and not operated for more than 14 days in any given year.~~

***COMMERCIAL RECREATION FACILITY.*** Recreational facilities operated as a business and open to the general public for a fee (i.e., CrossFit, coaching, personal training, gymnastic facility, athletic training facility).

***COMMISSION.*** See ***COUNTY COMMISSION.***

***COMPREHENSIVE PLAN.*** A document which describes in words, and may illustrate by maps, plats, charts, and other descriptive matter, the policy, goals, and objectives of the Board to interrelate all functional and natural systems and activities relating to the orderly development of the territory under its jurisdiction.

***CONDITION(S).*** A restriction, provision, or affirmative duty placed upon the permittee, as a predicate for obtaining or maintaining a conditional use permit. ***CONDITIONS*** should relate to the information provided as part of the conditional use permit application and the considerations required by the County Commission and should mitigate negative impacts and maximize positive impacts thereto.

***CONDITIONAL USE.*** Any use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to the evaluation and approval by the approving authority. A ***CONDITIONAL USE*** is subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district. Example: private nursery school in a residential area. The ***USE*** is desirable within the district, but the nature of the ***USE*** is such that special precautions need be taken to protect neighbors from undue traffic, noise, and inconvenience.

***CONDOMINIUMS.*** A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities. The lot or lots are owned in common by individual unit owners.

***CONSTRUCTION.*** Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

***COUNTY.*** Lawrence County, South Dakota.

***COUNTY COMMISSION.*** The governing body of Lawrence County.

~~***DESIGN STANDARDS.*** The specifications to land owners or developers for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum, or maximum dimensions of such items as rights-of-way, blocks, easements, and lots.~~

***DEVELOPER.*** Any person, partnership, joint venture, association, or corporation who shall participate as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease

of a subdivision.

**DEVELOPMENT CONDITIONS/AGREEMENT** The written development program, dimensional standards, special conditions, and restrictions on development submitted with the a change of zoning application for a PUD District.

**DIRECTOR.** The Lawrence County Planning & Zoning Director or employee designated by the Lawrence County Commission.

**DRIVE-IN RESTAURANT or REFRESHMENT STAND.** Any place or premises used for sale, dispensing, or serving of food refreshments or beverages, to persons in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

**DWELLING, MOBILE HOME.** A transportable structure, in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required facilities.

**DWELLING UNIT.** Any structure or part thereof, designed to be occupied as the living quarters of a single-family or housekeeping unit.

~~**EASEMENT.** Authorization, filed/recorded with Register of Deeds, by a property owner for the use by another, and for specified purpose, of any designated part of his or her property.~~

## **EXTRACTIVE INDUSTRY DEFINITIONS:**

**BUFFER ZONE.** A means used to separate, shield, screen, or lessen the effect of the mine operation on the surrounding area by reducing noise or dust, improving aesthetics, and protecting the public health, safety, and welfare.

**DISTURBED AREA or AREA OF DISTURBANCE.** Land from which overburden is to be or has been removed and land upon which overburden, waste rock, mine spoil, or mill tailings is to be or has been deposited; land which is disturbed by the building of access roads, heap leach pads, process ponds, railroad loops, warehouses, storage areas, or other support facilities for the purpose of mining; and land affected by surface subsidence, unstable slopes, and other surface effects caused by underground and surface mine workings.

**EXTRACTIVE INDUSTRY.** An industry whose primary operating activity is the extraction, whether by underground or surface means, of minerals, precious metals, sand, gravel, or stone. Materials extracted may or may not require milling or finishing on or in proximity to the extractive site.

**MINERAL.** A substance with economic value, whether organic or inorganic, that can be extracted from the earth, excluding water, oil, gas and sand, gravel, or rock to be crushed and used in construction, pegmatite minerals, or limestone, sand, gypsum, shale, or iron ore in the process of making cement.

**OFF-SITE MITIGATION.** The reclamation or improvement of a parcel of land in Lawrence County, whether in public or private ownership, selected by the Lawrence County Commission and agreed upon by the operator and landowner for a predetermined present and/or future land use. **OFF-SITE MITIGATION** may be required when the county deems the proposed reclamation of land disturbed by an extractive industry to be undesirable or insufficient for practical future beneficial use, and shall bear a reasonable relationship in scope and level of financial effort to the value of the land and resources affected by the mining and the value of reclamation not required in lieu of **OFF-SITE MITIGATION** requirements. **OFF-SITE MITIGATION** measures, when required by Lawrence County, shall be subject to approval and incorporated into the reclamation plan required by the South Dakota Board of Minerals and Environment.

**PERMIT AREA.** The area described in an application for a small or large scale mineral extractive industry and small or large scale sand, gravel, or rock extractive industry operation, which includes the disturbed area, access roads, and the buffer zone.

**RECLAMATION OPTION.** Those choices of reclamation of land disturbed by an extractive industry as outlined in SDCL Ch. 45-6B.

**SOCIOECONOMIC IMPACT STUDY.** A study prepared by a mutually acceptable independent contractor at the operator's expense, for the consideration of Lawrence County and a large-scale extractive industry operator, designed to assess a broad range of actual and potential social and economic impacts arising from the permitting of a large-scale extractive industry. Issues addressed by the **SOCIOECONOMIC IMPACT STUDY** shall be as determined by the Lawrence County Commission.

### **TYPES OF EXTRACTIVE INDUSTRY:**

**LARGE SCALE MINERAL EXTRACTIVE INDUSTRY.** The construction or operation of an extractive industry which does not meet the definition of a small scale mineral extractive industry shall be considered a **LARGE SCALE MINERAL EXTRACTIVE INDUSTRY**.

**LARGE SCALE SAND, GRAVEL, OR ROCK EXTRACTIVE INDUSTRY.** The construction or operation of an extractive industry which does not meet the definition of a small scale sand, gravel, or rock extractive industry shall be considered a **LARGE SCALE SAND, GRAVEL, OR ROCK EXTRACTIVE INDUSTRY**.

**SMALL-SCALE MINERAL EXTRACTIVE INDUSTRY.** The construction or operation of an extractive industry which:

- (a) Projects to directly or contractually employ less than 30 persons on-site;
- (b) Disturbs not more than ten acres, excluding access roads and areas that have been reclaimed; and
- (c) Extracts less than 25,000 tons of material per calendar year.

**SMALL-SCALE SAND, GRAVEL, OR ROCK EXTRACTIVE INDUSTRY.** The construction or operation of an extractive industry which:

- (a) Projects to directly or contractually employ less than 30 persons on-site;
- (b) Disturbs not more than ten acres, excluding access roads and areas that have been reclaimed; and
- (c) Extracts less than 250,000 tons of material per calendar year.

**PERSONAL USE SAND, GRAVEL, OR ROCK EXTRACTION EXTRACTIVE INDUSTRY.** The excavation or extraction of any earth products of natural sand, gravel, or rock deposits, where such excavation is for purposes of grading for a building lot(s); roadway; approved site plan; or approved subdivision, where grass sod is removed to be used for landscaping, or where materials are excavated for the purpose of the landowner on the landowner's property.

**FARMER'S MARKET.** An area where space is rented to individual vendors who grow farm products such as agricultural and horticultural goods, or who produce food specialty products such as baked goods, candies, jams, jellies, spices, condiments, cheeses, eggs, milk, honey, meats, fish, and pasta. This definition does not include the sale of arts and crafts products.

**FEEDLOT.** A parcel of land, exclusive of normal ranching operations, whereon there is contained an operation of feeding or finishing animals in preparation for market.

**FEEDLOT, COMMERCIAL.** A lot for the concentrated feeding of livestock, fowl, or fur animals where such feeding is not done as an accessory use to the production of crops on the premises of which the **FEEDLOT** is a part.

**FILLING STATION.** Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. This definition does not include auto salvage operations.

**FIRE PLAN.** A fire protection plan is a means to assist in the mitigation of fire hazards in the wildland urban interface.

~~**FLOATING ZONE.** An unmapped zoning district where all the zoning requirements are contained in the ordinance and the zone is fixed on the map only when the application for development meeting the zone requirements is approved.~~

## **FLOODPLAIN DEFINITIONS:**

**100-YEAR FLOOD** means a flood having a recurrence interval that has a 1-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "100-hundred-year flood" and "1-percent-annual-chance flood" are synonymous. The term does not imply that the flood will necessarily happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

**100-YEAR FLOODPLAIN** means the area of land susceptible to being inundated due to the occurrence of a 1-percent-annual-chance flood.

**500-YEAR FLOOD** means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will necessarily happen once every 500 years and mandatory flood insurance requirement generally does not apply.

**500-Year Floodplain** means the area of land susceptible to being inundated due to the occurrence of a 0.2-percent-annual-chance flood.

**ACCESSORY STRUCTURE** is a structure that is on the same parcel of property as a principal structure. Its use is incidental to the use of the principal structure the ownership of the accessory structure is the same owner as of the principal structure. An accessory structure is a non-residential structure of low value that is used solely for the parking of vehicles and storage of tools, materials, or equipment. No human habitation is allowed within an accessory structure.

**ADDITION** is any improvement that expands the enclosed footprint or increases the square footage of an existing structure. This includes lateral additions added to the side, front, or rear of a structure; vertical additions added on top of a structure; and enclosures added underneath a structure.

**ALLUVIAL FAN FLOODING** means flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex. It is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**APEX** means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**APPORTENANT STRUCTURE**—see *Accessory Structure*.

**AREA OF FUTURE-CONDITIONS FLOOD HAZARD.** The land area that would be inundated by the 1% annual chance 100-year flood based on future conditions hydrology.

**AREA OF SHALLOW FLOODING** means a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD-RELATED EROSION HAZARD** is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the FIRM, Zone E may be further refined.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The **AREA** may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, or AE. For purposes of these regulations, the term **SPECIAL FLOOD HAZARD AREA** is synonymous in meaning with the phrase **AREA OF SPECIAL FLOOD HAZARD**.

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE).** The water surface elevation of the 1% annual chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.

**BASEMENT.** Any area of the building having its floor subgrade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

**Best Available Data** is existing flood hazard information adopted by a community and reflected on an effective FIRM, FBFM, and/or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

**BREAKAWAY WALL.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**BUILDING.** See **STRUCTURE**.

**Channelization** means the artificial creation, enlargement, realignment, or alteration of a stream channel's slope, shape, or alignment. Streambank restoration may be deemed as channelization.

**Code of Federal Regulations (CFR)** is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

**CONDITIONAL LETTER OF MAP REVISION (CLOMR).** FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The **LETTER** does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA.

**Conditional Letter of Map Revision Based on Fill (CLOMR-F)** is FEMA's comment on a proposed structure or property. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

**Crawlspace** means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist the next higher floor elevation, designed with proper openings that equalize hydrostatic pressures of flood water, and is not used for habitation.

**Critical Facility** means a facility or building where even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, schools, storage of critical records, assisted living and similar facilities.

**Deed Restriction** refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings from being used for specific purposes or from being used at all.

**Detached Garage** is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

**DEVELOPMENT.** Any human-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, **demolition**, excavation, or drilling operations or storage either **temporary or permanent** of equipment or materials.

**Elevated Building** is a non-basement building built, in the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, an “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**ENCLOSURE** refers to an enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage.

**EROSION.** The process of the gradual wearing away of land masses **by wind, water, or other natural agents.** ~~This peril is not per se covered under the program.~~

**EXISTING CONSTRUCTION.** ~~For the purposes of determining rates,~~ **Refers** to structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES.**

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXISTING STRUCTURES.** See **EXISTING CONSTRUCTION.**

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA** means the Federal Emergency Management Agency.

**FILL** refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to the existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

**FLOOD** or **FLOODING.**

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source; and/or

(b) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in division (a)2. above of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(c) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in **FLOODING** as defined in division (a)1. above.

**FLOOD ELEVATION.** ~~Determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a 1% or greater chance of occurrence in any given year.~~

**FLOOD INSURANCE MANUAL** is the document FEMA produces twice a year and is used to write flood insurance policies underwritten by the NFIP. The document contains definitions, policy rates, coverage and limitations, application and insurance policy forms.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** or **FLOOD ELEVATION STUDY.** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**FLOODPLAIN DEVELOPMENT PERMIT** is a community issued permit or document that is used for any development that occurs within an SFHA identified by FEMA or the community. It is used to address the proposed development to ensure compliance with the community's ordinance.

**FLOODPLAIN** or **FLOOD-PRONE AREA**. Any land area susceptible to being inundated by water from any source (see definition of **FLOODING**).

**FLOODPLAIN MANAGEMENT** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, mitigation plans, and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

**FLOOD OPENING** refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

**FLOOD PROTECTION SYSTEM** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to reduce the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized, flood modifying works are those constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee have met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

**FLOODPROOFING**. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

**FLOODWAY**. See **REGULATORY FLOODWAY**.

**FLOODWAY ENCROACHMENT LINES**. The lines marking the limits of floodways on federal, state, and local floodplain maps.

**FREEBOARD**. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

**FREEBOARD** tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**FUNCTIONALLY DEPENDENT USE**. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE**. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE**. Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior; or
  2. Directly by the Secretary of the Interior in states without approved programs.

**LETTER OF MAP AMENDMENT (LOMA)**. An official amendment, by letter, to an effective Flood Insurance Rate Map. A **LOMA** establishes a property's location in relation to the special flood hazard area. **LOMAs** are usually issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation.

**LETTER OF MAP REVISION (LOMR)** means FEMA's modification or revision to an entire or portion of the effective **FIRM**, or Flood Boundary and Floodway Map, or both. **LOMRs** are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective **BFEs**, or the **SFHA**.

**LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** FEMA’s modification of the special flood hazard area shown on the effective Flood Insurance Rate Map based on the placement of fill outside the existing regulatory floodway. All requests for changes to effective maps, other than those initiated by FEMA, must be made in writing through the chief executive officer of the community or an official designated by the CEO.

**LEVEE.** A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST ADJACENT GRADE (LAG)** means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s **LOWEST FLOOR**; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 40 C.F.R. § 60.3.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle; however, a manufactured home may be used for both residential and non-residential use.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MANUFACTURED HOME PARK OR SUBDIVISION, NEW.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by Lawrence County.

**MAP.** The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

**MEAN SEA LEVEL.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**MIXED USE STRUCTURES** are structures with both a business and a residential component, but where the area used for business is less than 50 percent of the total floor area of the structure.

**NEW CONSTRUCTION** means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

**NO-RISE CERTIFICATIONS** are formal certifications signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

**PHYSICAL MAP REVISION (PMR)** is FEMA’s action whereby one or more map panels are physically revised and republished.

**RECREATIONAL VEHICLE.** A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

**RIVERINE** means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

**SECTION 1316** refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership.

**SPECIAL FLOOD HAZARD AREA.** See **AREA OF SPECIAL FLOOD HAZARD.**

**SPECIAL HAZARD AREA.** An area having special flood, mudslide (i.e., mudflow), or flood related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, or AE.

**START OF CONSTRUCTION** means for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. Law No. 97-348), includes substantial improvement, and means the date the building permit was issued,

provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual **START** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** means:

1. For floodplain management purposes, a walled and roofed building, culvert, bridge, dam, a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance purposes, means:
  - a. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
  - b. A manufactured home; or (A manufactured home, also known as a mobile home, is a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation.)
  - c. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.
2. For the latter purpose, **STRUCTURE** does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in division (b)1.c. above of this definition, or a gas or liquid storage tank.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**VARIANCE** means a grant of relief by a community from the terms of a floodplain management regulation.

**VIOLATION.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 40 C.F.R. § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in **VIOLATION** until such time as that documentation is provided.

**WATER SURFACE ELEVATION.** The height, in relation to the **North American Vertical Datum (NAVD) of 1988**, ~~National Geodetic Vertical Datum (NGVD) of 1929~~ (or other datum, where specified), of floods of various magnitudes and frequencies, **such as the 1-percent-annual-chance flood event**, in the floodplains of coastal or riverine areas.

**Watercourse** means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch or other similar feature.

**GOVERNMENT LOT.** A subdivision of a section which is not described as an aliquot part of the section, but which is designated by a lot number. A **GOVERNMENT LOT** may be regular or irregular in shape and its acreages varies from that of regular section subdivisions. For purposes of these regulations, rights-of-way for public or private transportation shall not impact the completeness of a quarter-quarter section.

**GUEST HOUSE.** Living space in a detached accessory building with adequate infrastructure to provide service to the additional living space and is intended to provide short-term accommodations for visiting guests of the owners of the primary dwelling unit.

**HIGHWAY.** Every way or place of whatever nature open to the public, as a matter of right, for purposes of vehicular travel, is a **HIGHWAY**. ~~The term **HIGHWAY** shall also include private access easements and roadways.~~

**HIRED HAND.** Any person who, as a compensated employee, assists with the chores, operation, security, or maintenance of **the property**. ~~a farm or ranch.~~

**HOME DAYCARE** as defined by SDCL

**HOME OCCUPATION.** A gainful occupation or profession conducted by a member of the immediate

family residing on the premises and no more than two additional employees in all zoning districts. The **HOME OCCUPATION** shall be conducted entirely within an enclosed structure and no stock in trade shall be displayed outside the enclosed structure. Other than an approved **HOME OCCUPATION** sign, no alteration to the property or any structure thereon shall indicate that it is being utilized in whole or in part for any purpose other than residential use.

**I.C.C.** International Code Council.

**INVASIVE SPECIES PLAN.** A document stating the immediate and future plan to eradicate and control invasive species.

**LOADING SPACE, OFF-STREET.** Space logically and conveniently located for bulk pickups and deliveries scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required **OFF-STREET LOADING SPACE** is not to be included as off-street parking space in computation of required off-street parking space.

**LOT.** A plot or parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open space as are herein required. Such **LOT** shall have frontage on an improved public street, or on an approved private street, and may consist of: a single lot of record; a portion of a lot of record; a combination of complete lots of record, or complete lots of record and portions of lots of record; and a parcel or land described by metes and bounds; provided that in no case of division or combination shall a residual lot or parcel be created which does not meet the requirements of this title.

**LOT FRONTAGE.** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered **FRONTAGE**, and yards shall be provided as indicated under “yards” in this chapter.

**LOT MEASUREMENTS.**

(a) **DEPTH.** The distance between the midpoints of straight lines connecting the end points of the side lot lines at the front and rear.

(b) **WIDTH.** The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

**LOT OF RECORD.** A lot which is part of a subdivision recorded in the office of the Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT TYPES.**

(a) **CORNER LOTS.** Lots located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a **CORNER LOT** if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

(b) **INTERIOR LOTS.** A lot other than a corner lot with only one frontage on a street.

(c) **REVERSED FRONTAGE LOTS.** A lot with frontage on two generally parallel streets or highways having access only from the lesser order roadway.

(d) **THROUGH LOT.** A lot other than a corner lot with frontage on more than one street. **THROUGH LOTS** abutting two streets may be referred to as **DOUBLE FRONTAGE LOTS**.

**MASTER PLAN.** An illustrative drawing, or series of drawings, and a written narrative submitted with the change of zoning application for a PUD District that depicts the general design concept, character, and development intent for the entire property, demonstrates the proposed mix of land uses within the property, general locations of such land uses and the overall transportation pattern within the property. A long-range, land-use plan for development that identifies site access, general improvements, and any plan for future development/subdivision of the property.

**MEDICAL HARDSHIP.** A person determined to have a **MEDICAL HARDSHIP** shall have a disabling physical impairment or mental disorder expected to be of an indefinite duration.

**METES AND BOUNDS DESCRIPTION.** A system of describing and identifying land by measures

(metes) and direction (bounds) from an identifiable point of reference, such as a monument or other marker, a tree, or other permanent feature.

**MOBILE HOME PARK.** A parcel of land, owned by an individual, firm, trust, partnership, public or private association or corporation, that has been planned and improved for the placement of two or more mobile homes.

**NEW CONSTRUCTION.** *NEW CONSTRUCTION* means structures for which the start of construction commenced on or after the effective date of this title.

**NONCONFORMING USE.** A building, structure, or use of land existing at the time of enactment of this title and which does not conform to the regulations of the district in which it is situated.

**OVERLAY DISTRICT.** See **ZONING DISTRICT.**

**PARCEL.** A tract or plot of land of any size that may or may not be subdivided or improved.

**PARKING SPACE, OFF-STREET.**

(a) A space adequate for parking a motor vehicle with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required **OFF-STREET PARKING AREAS** for three or more motor vehicles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering room incidental to parking shall be any public street, walk, or alley and so that any motor vehicle may be parked and un-parked without moving another.

(b) For purpose of rough computation, an **OFF-STREET PARKING SPACE** and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all the ordinances and regulations of the county.

**PARKS AND PLAYGROUNDS.** Public lands and open spaces in the county dedicated or reserved for recreational purposes.

**PERSON** includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

**PERSONAL USE AIRSTRIP/HELIPORT.** An airstrip or heliport not for the use of the general public.

**QUARTER-QUARTER SECTION.** A quarter of a quarter section as determined by the United States Rectangular Land Survey system shall be considered a **QUARTER-QUARTER SECTION** for purposes of these regulations. For purposes of these regulations, rights-of-way for public or private transportation shall not impact the completeness of a **QUARTER-QUARTER SECTION.**

**RESTRICTED USE SOLID WASTE DISPOSAL FACILITY.** Construction and operation of a **RESTRICTED USE SOLID WASTE DISPOSAL FACILITY**, to include treatment, storage, or disposal of any solid waste, which shall be consistent with a general permit for restricted solid waste disposal facilities issued to a permittee by the State Department of Environment and Natural Resources, or a successor agency.

**RIGHT(S)-OF-WAY.** A strip of land occupied or intended to be occupied by a street, **highway**, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or other utilities or for another special use. The usage of the term **RIGHT(S)-OF-WAY** for land platting purposes shall mean that every **RIGHT-OF-WAY** hereafter established and shown on a ~~final~~ plat is to be separate and distinct from the lots or parcels adjoining such **RIGHT(S)-OF-WAY** and not included within the dimensions or areas of such lots or parcels.

**SALVAGE YARD.** An area of land with or without building used for or occupied by a deposit, collection, or the storage, outside of a completely enclosed building, of used and/or discarded materials such as waste paper, rags or scrap metal, used building materials, house furnishing, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same.

**SETBACKS.** The minimum distance by which any building or structure must be separated from the street right-of-way or lot line.

## **SIGN DEFINITIONS:**

**SIGN.** Any device designed to inform or attract the attention of persons.

**SIGN, ABANDONED/BILLBOARD.** A sign or sign structure that is blank, obliterated, or displays obsolete advertising material for a period in excess of 12 continuous months. The 12-month period for determining if a sign is abandoned commences upon notification of violation to the offender.

**SIGN, BACK-TO-BACK.** An off-premises or on-premises sign consisting of two sign facings oriented in the opposite direction with not more than one face per side.

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

**SIGN, DIRECTIONAL.** A sign erected for the convenience of the public, such as directing traffic movement, parking, or identifying restrooms, public telephones, walkways, and other similar features or facilities and bearing no advertising in the message.

**SIGN, DOUBLE FACED.** An off-premises or on-premises sign with two adjacent faces oriented in the same direction and not more than ten feet apart at the nearest point between the two faces.

**SIGN, FACING.** The portion of a sign structure upon which advertising is affixed or painted and visible in one direction at one time.

**SIGN, OFF-PREMISES.** A sign/billboard that advertises goods or services not available at the location of the billboard or advertising sign.

**SIGN, ON-PREMISES.** A sign identifying an establishment's activities, products, or services conducted or available on the property upon which it is located and signs advertising the sale or lease of the property upon which they are located.

**SIGN, STRUCTURE.** The sign face and support members that are permanently affixed to the ground or attached to a structure.

**OUTDOOR ADVERTISING BUSINESS.** Provisions of outdoor displays or display space on a lease or rental basis only.

**SPECIAL EXCEPTION.** A use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as **SPECIAL EXCEPTIONS** are made in this title. (For more see definition of **CONDITIONAL USE**.)

**SPECIALTY RESORT.** An establishment complete with building, structures, grounds, and sanitary facilities providing lodging with or without meals or other services for the enjoyment of its guests.

**STATE.** The State of South Dakota.

**STREET LINE.** ~~The right-of-way line of a street.~~

**STRUCTURE** means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include buildings, mobile homes, walls, fences, billboards, and poster panels.

**SUBDIVIDER.** See **DEVELOPER**.

**SUBDIVISION.** The division or re-division of a lot, tract, or parcel of land by any means into one or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer, or ownership, or building or lot development. The term shall include the re-subdivision of land.

**SURETY.** Any form of security including a cash deposit, surety bond, or instrument of credit from a federally insured financial institution in an amount and form satisfactory to the County Commission. All **SURETIES** required by these regulations shall be approved by the County Commission.

**TEMPORARY SECOND RESIDENCE.** A mobile home that is located on the same lot as the primary dwelling and shall not be rented to anyone excepting a person(s) approved under a CUP and shall not be sold as a separate lot.

**TOWN HOMES/TWIN HOMES.** A single structure consisting of two dwelling units, each on a separate lot, but sharing a common wall or connected at the lot line.

**U-PICK OPERATION.** A fruit or vegetable-growing farm that provides the opportunity for customers to pick their own fruits or vegetables directly from the plant.

**VARIANCE** means a departure from any provision of the zoning requirements for a specific parcel

accepted use, without changing this title or the underlying zoning of the parcel. A *VARIANCE* usually is granted only upon demonstration of hardship based on the peculiarity of the property in relation to other properties in the same zone district.

**VARIANCE EXCEPTION.** To provide administrative relief from zoning requirements that does not adversely affect adjacent properties and the nearby area by allowing up to a 25% reduction in minimum setbacks as allowed by county ordinance as determined on each individual application.

**WETLANDS.** The wetlands depicted on the ArcGIS system for Lawrence County as created by the U.S. Fish and Wildlife Service, Division of Habitat and Resource Conservation and published in January of 2009, or as may be amended. The data set represents the extent, approximate location, and type of wetlands and deepwater habitats in the conterminous United States. These data delineate the aerial extent of wetlands and surface waters as defined by Cowardin et al. (1979).

**WILDFIRE HAZARD ASSESSMENT CONTRACTOR.** A person(s) who possesses the following minimum certifications: NWCG certifications S-130 Introduction to firefighting; S-190 Basic Fire Behavior; S-290 Intermediate Fire Behavior; S-215 Fire Operations in the Wildland Urban Interface; a [www.firewise.org](http://www.firewise.org) certification for “Assessing Wildfire Hazards in the Home Ignition Zone” or equivalent **NFPA credentials**; and has at least two years of wildland fire fighting experience with a certified fire department located in a wildland urban interface setting.

## **WIND ENERGY SYSTEMS (WES) DEFINITIONS:**

**FALL ZONE.** The area defined as the furthest distance from the tower base which will collapse in the event of a structural failure.

**FEEDER LINE.** Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WES.

**FLICKER** or **SHADOW FLICKER.** The effect that results when the shadow cast by the rotating blade of a wind energy system moves across a fixed point.

**LARGE WIND ENERGY SYSTEM (LWES).** All wind energy systems excluding small wind energy systems.

**METEOROLOGICAL TOWER.** Those towers which are erected primarily to measure wind speed and directions plus other data relevant to sighting WES. **METEOROLOGICAL TOWERS** do not include towers and equipment used by airports, the South Dakota Department of Transportation, or other similar applications to monitor weather conditions.

**NONPARTICIPATING PROPERTY.** Real property on which either there is no large or small wind system or there is a large wind system that is in a different wind farm system than another large wind system.

**OCCUPIED BUILDING.** A residence, school, hospital, church, public library, or other building used for public gathering that is occupied or in use when the permit application is submitted.

**OPERATOR** means the entity responsible for the day-to-day operation and maintenance of the wind generator system.

**ORNAMENTAL WIND DEVICE.** Any flag, banner, pennant, streamer, or similar device that moves freely in the wind. Also includes an apparatus with a height of not more than 35 feet, for converting wind energy into electrical power to operate machinery (e.g., grain mills, water pumps, and lighting), but in no case is tied into the electrical grid system.

**OWNER.**

(a) Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

(b) The person or entity that owns a wind system or adjacent property.

**PARTICIPATING PROPERTY.** Property on which a large or small wind system is located and that is in the same wind farm system as another large wind system.

**PROPERTY LINE.** The boundary line of the area over which the entity applying for a WES permit has legal control for the purposes of installation of a WES. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

**ROTOR DIAMETER.** The diameter of the circle described by the moving rotor blades.

**SMALL WIND ENERGY SYSTEM (SWES).** One wind energy system with a single tower and a system height not to exceed 75 feet and used primarily for on-site consumption of power.

**SYSTEM HEIGHT.** The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

**TOWER.** Includes vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

**TOWER HEIGHT.** The height above grade of the fixed portion of the tower, excluding the wind generator.

**TURBINE.** The parts of the WES including the blades, generator, and tail.

**UTILITY.** Any person engaged in the generation, transmission, or distribution of electric energy in this state including, but not limited to, a private investor owned utility, a cooperatively owned utility, a consumer’s power district, and a public or municipal

utility.

**WIND ENERGY SYSTEM (WES).** A commonly owned and/or managed integrated system that converts wind movement into electricity. All of the following are encompassed in this definition of system: tower or multiple towers, including foundations; generator(s); blades; power collection systems, including pad-mount transformers; access roads, meteorological towers, on-site electric substations, control building, and other ancillary equipment and facilities; and electric interconnection systems or portion thereof dedicated to the **WES**.

**YARD, FRONT.** An open space extending between side lot lines across the front of a lot adjoining a public street.

**YARD, REAR.** An open space extending the full width of the lot between the building and the rear lot line.

**YARD SIDE.** An open space extending from the front yard to the rear yard between the building and the nearest side lot line.

**ZONING DISTRICT.** The classification of all land within the jurisdiction of Lawrence County, in accordance **with this document and shown on the** Zoning Map of Lawrence County.

(Ord. 14-01, passed 6-6-2014, Ch. 3; Ord. 16-01, passed 6-3-2016; Ord. 16-03, passed 7-21-2017; Ord. 17-01, passed 5-1-2017; Ord. 17-02, passed 9-29-2017)