

CHAPTER 6: DISTRICT REGULATIONS

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§ II-6.001 A-1 - GENERAL AGRICULTURE DISTRICT.

(A) *General.* The intent of the A-1 - General Agriculture District is to provide a district that will: allow suitable areas of the county to be retained in agricultural uses; prevent scattered nonfarm development; and secure economy in governmental expenditures for public services, utilities, and schools.

(B) *Allowed uses.* In A-1 - General Agriculture District, the following uses are allowed:

- (1) Single-family dwellings including, but not limited to, modular homes, manufactured homes, mobile homes, and stick-built homes;
- (2) Building eligibility on each quarter-quarter section is determined by the following conditions:
 - (a) There are no other dwellings on the quarter-quarter section;
 - (b) Approval has been granted by the appropriate governing entity for access to a public road;
 - (c) The remaining portion of the quarter-quarter section is retained for agricultural land; and
 - (d) ~~Prior to any building permit being issued for any new single-family residence located in the A-1—~~ General Agriculture District, a right to farm covenant shall be filed on the parcel of land upon which the new structure will be located. The right to farm covenant shall read as follows:

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

- (3) Transportation and utility easements and rights-of-way;
- (4) On-premises signs, complying with Chapter 8 of this zoning title;

- (5) Historical monuments and structures;
- (6) ~~Accessory living quarters;~~
- (7) Accessory uses and structures (~~except accessory living quarters~~);
- (8) Home occupations;
- (9) Home daycare;
- (10) Public parks and playgrounds;
- (11) General ranching and farming;
- (12) Harvesting;
- (13) Forestry;
- (14) Forest preserves;
- (15) Commercial plant nurseries and greenhouses;
- (16) Cemeteries (church/family/pet);
- (17) Sod and tree farming;
- (18) Grazing;
- (19) Horticulture, viticulture, floriculture, and apiculture;
- (20) Truck gardening;
- (21) Roadside stands exclusive for sale of products raised on the premises;
- (22) Noncommercial riding stables and academies;
- (23) Noncommercial indoor/outdoor arenas;
- (24) Wild crop harvesting;
- (25) Typical farm/ranch operation; and
- (26) Personal use mineral and sand, gravel, or rock extractive industry.

(C) *Allowed special uses.* A building or premises may be used for the following purposes in the A-1 - General Agriculture District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purposes, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title:

- (1) A small wind energy system is sited on at least 40 acres and meets the requirements of § II-10.001;
- (2) Temporary uses in conjunction with § II-10.007;
- (3) Personal use airstrip/heliport is allowed if sited on at least 160 acres and the location of airstrip/heliport is at least 500 feet from the outer perimeter of the 160 acre parcel; and
- (4) Guest houses in conjunction with § II-10.012.

(D) *Conditional uses.* The following uses may be allowed in the A-1 - General Agriculture District under the provisions of Chapter 19 of this zoning title:

- (1) Kennels, grooming, boarding, vet clinics, and animal shelters;
- (2) Churches, religious structures;
- (3) Schools;
- (4) Golf courses;
- (5) Fairgrounds and community centers;
- (6) Fire stations;
- (7) Antennas, microwave and communication towers;
- (8) Rental storage units, garages, buildings;
- (9) Temporary second residence as per § II-10.010;
- (10) Bed and breakfast;
- (11) Specialty resort;
- (12) Organized group camps;
- (13) Commercial gun and archery ranges;
- (14) Fish hatcheries;
- (15) Water treatment, purification, storage, pumping, solid waste disposal sites;
- (16) Mineral exploration;
- (17) Mineral extraction;

- (18) Light manufacturing of agricultural products;
- (19) Commercial indoor/outdoor arenas;
- (20) Commercial outdoor recreation, e.g., paintball, dude ranch, BMX track, motocross, and mud bogging;
- (21) Commercial sawmill/molding mill;
- (22) Campground;
- (23) Eating and drinking establishments;
- (24) **Commercial** auto repair, maintenance shop, welding shop, trucking, drilling, sheet metal;
- (25) ~~Wildlife sanctuary;~~
- (26) Airports with FAA regulations;
- (27) Commercial feedlots;
- (28) Livestock auction yards;
- (29) Drilling for oil or natural gas;
- (30) Small and large scale sand, gravel, or rock extraction;
- (31) Utility substations;
- (32) Small and large wind energy system per § II-10.001;
- (33) Personal use airstrip/heliport if the location of airstrip/heliport is at least 500 feet from the outer perimeter of the parcel(s); and
- (34) Restricted use solid waste disposal facility.
- (35) **Commercial Taxidermy**

(E) *Density, setback(s), and lot requirements.*

General Requirements	
Density/minimum lot size	40 acre(s)*
Front, side, and rear yard(s)	25'**
Lot width	None
Maximum height	35'***
Table notes: *: The maximum average density shall be 1 residence per 40 acres. The minimum lot size shall be 40 acres a quarter of a quarter-section of land (1/16 of 640 acres or 40 acres or a government lot) , unless it is a preexisting lot of record. **: From all lot lines and any road right-of-way, except as approved pursuant to a variance. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way. ***: Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers, silos).	

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 1; Ord. 14-03, passed 12-30-2014; Ord. 16-01, passed 6-3-2016; Ord. 16-03, passed 7-21-2017; Ord. 17-02, passed 9-29-2017)

§ II-6.002 A-2 - RESIDENTIAL AGRICULTURE DISTRICT.

(A) *General.* The intent of the A-2 - Residential Agriculture District is to provide a district that will provide a large lot buffer between A-1 - Agriculture Districts and municipal boundaries and/or higher density zonings, while maintaining some agricultural uses and a rural feel.

(B) *Allowed uses.* In A-2 - Residential Agriculture District, the following uses are allowed:

- (1) Single-family dwellings including, but not limited to: modular homes; manufactured homes; mobile homes; and stick-built homes;
- (2) Transportation and utility easements and rights-of-way;

- (3) On-premises signs, complying with Chapter 8 of this zoning title;
- (4) Historical monuments and structures;
- (5) ~~Accessory living quarters;~~
- (6) Accessory uses and structures (~~except accessory living quarters~~);
- (7) Home occupations;
- (8) Home daycare;
- (9) Public parks and playgrounds;
- (10) General ranching and farming;
- (11) Harvesting;
- (12) Forestry;
- (13) Forest preserves;
- (14) Non-retail plant nurseries and greenhouses;
- (15) Family cemetery/pet cemetery;
- (16) Sod and tree farming;
- (17) Grazing;
- (18) Horticulture, viticulture, floriculture, and apiculture;
- (19) Truck gardening;
- (20) Roadside stands exclusive for sale of products raised on the premises;
- (21) Noncommercial riding stables and academies;
- (22) Noncommercial indoor/outdoor arenas; and
- (23) Wild crop harvesting.

(C) *Allowed special uses.* A building or premises may be used for the following purposes in the A-2 - Residential Agriculture District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purposes, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title:

- (1) Temporary uses in conjunction with § II-10.007; and
- (2) Guest houses in conjunction with § II-10.012.

(D) *Conditional uses.* The following uses may be allowed in the A-2 - Residential Agriculture District under the provisions of Chapter 19 of this zoning title:

- (1) Utility substations;
- (2) Kennels, grooming, boarding, vet clinics, and animal shelters;
- (3) Churches, religious structures;
- (4) Schools;
- (5) Fairgrounds and community centers;
- (6) Fire stations;
- (7) Antennas, microwave and communication towers;
- (8) Roadside stands;
- (9) Bed and breakfast;
- (10) Specialty resort;
- (11) Commercial gun and archery ranges;
- (12) Water treatment, purification, storage, pumping, solid waste disposal sites;
- (13) Commercial indoor/outdoor arenas;
- (14) Commercial sawmill/molding mill;
- (15) Personal use mineral and sand, gravel, or rock extractive industry;
- (16) Small and large wind energy systems per § II-10.001;
- (17) Personal use airstrip/heliport if the location of airstrip/heliport is at least 500 feet from the outer perimeter of the parcel(s); and
- (18) Commercial recreation facility.

(E) *Density, setback(s), and lot requirements.*

General Requirements

Density/minimum lot size	10 acre average and 8 acre minimum*
Front, side, and rear yard(s)	25'**
Lot width	None
Maximum height	35'***
<p>Table notes:</p> <p>*: The maximum average density shall be 4 residences per a quarter of a quarter-section of land (1/16 of 640 acres or 40 acres or a government lot), unless it is a preexisting lot of record.</p> <p>** : From all lot lines and any road right-of-way, except as approved pursuant to a variance. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way.</p> <p>***: Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers).</p>	

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 2; Ord. 16-01, passed 6-3-2016; Ord. 16-03, passed 7-21-2017; Ord. 17-01, passed 5-1-2017)

§ II-6.003 PF - PARK FOREST DISTRICT.

(A) *General.* The intent of the PF - Park Forest District is to provide a district with an area to be preserved for its natural beauty, resources, and open character.

(B) *Allowed uses.* In PF - Park Forest District, the following uses are allowed:

- (1) Single-family dwellings including, but not limited to, modular homes, manufactured homes, mobile homes, and stick-built homes;
- (2) Transportation and utility easements and rights-of-way;
- (3) On-premises signs, complying with Chapter 8 of this zoning title;
- (4) Historical monuments and structures;
- (5) ~~Accessory living quarters;~~
- (6) Accessory uses and structures (~~except accessory apartments~~);
- (7) Home occupations;
- (8) Home daycare;
- (9) Public parks and playgrounds;
- (10) General ranching and farming;
- (11) Harvesting;
- (12) Forestry;
- (13) Forest preserves;
- (14) Personal use plant nurseries and greenhouses;
- (15) Personal use airstrip/heliport;
- (16) Family cemetery/pet cemetery;
- (17) Sod and tree farming;
- (18) Grazing;
- (19) Horticulture, apiculture, floriculture, and viticulture;
- (20) Truck gardening;
- (21) Noncommercial riding stables;
- (22) Noncommercial indoor/outdoor arenas;
- (23) Roadside stands exclusive for sale of products raised on the premises;
- (24) Personal use mineral and sand, gravel, or rock extractive industry;
- (25) Wild crop harvesting;
- (26) Signs of a noncommercial nature and in the public interest, erected, and maintained by a municipality or township in compliance with all other state and local laws;
- (27) Temporary buildings and mobile homes for uses incidental, and adjacent to, construction work should be removed within six months of completion or abandonment of the construction work, but in no case

more than 12 total months; and

(28) Typical farm/ranch operation.

(C) *Allowed special uses.* A building or premises may be used for the following purposes in the PF - Park Forest District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purposes, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title:

(1) Temporary uses in conjunction with § II-10.007;

(2) Personal use airstrip/heliport is allowed if sited on at least 160 acres and the location of airstrip/heliport is at least 500 feet from the outer perimeter of the 160-acre parcel; and

(3) Guest houses in conjunction with § II-10.012.

(D) *Conditional uses.* The following uses may be allowed in the PF - Park Forest District, under the provisions of Chapter 19 of this zoning title:

(1) Utility substations;

(2) Kennels, grooming, boarding, vet clinics, and animal shelters;

(3) Home occupations that may constitute a public nuisance;

(4) Churches, religious structures;

(5) Schools;

(6) Playgrounds and parks;

(7) Fairgrounds and community centers;

(8) Fire stations;

(9) Golf courses;

(10) Antennas, microwave and communication towers;

(11) Rental storage units, garages, buildings;

(12) Bed and breakfast;

(13) Specialty resort;

(14) Lodge, hall, meeting place;

(15) Organized group camps;

(16) Gun and archery ranges;

(17) Water treatment, purification, storage, pumping, solid waste disposal sites;

(18) Assisted living, elderly care;

(19) Childcare center;

(20) Mineral exploration;

(21) Mineral extraction;

(22) Light manufacturing when contained entirely in a building size constraint;

(23) Commercial riding stables and academies;

(24) Commercial indoor/outdoor arenas;

(25) Commercial outdoor recreation, paintball, dude ranch, BMX track;

(26) Sawmill/molding mill;

(27) Campground;

(28) Airports with FAA regulations;

(29) Temporary second residence § II-10.010;

(30) Small and large wind energy systems per § II-10.001;

(31) Personal use airstrip/heliport if the location of airstrip/heliport is at least 500 feet from the outer perimeter of the parcel(s);

(32) Licensed professional offices (e.g., accountant, appraiser, architect, lawyer, real estate professionals, day spa) if located within the growth areas as defined by the Comprehensive Plan;

(33) Retail space under 1,000 square feet per vendor (e.g., diner, coffee shop, lunch counter, boutique space) if located within the growth areas as defined by the Comprehensive Plan;

(34) Small and large scale sand, gravel, or rock extraction;

(35) Commercial recreation facility; and

(36) Restricted use solid waste disposal facility.

(E) *Density, setback(s), and lot requirements.*

General Requirements	
Density/minimum lot size	5-acre average and 2-acre minimum*
Front, side, and rear yard(s) on lots over 2 acres	25'**
Front on existing lots under 2 acres	25'**
Side, and rear yard(s) on existing lots under 2 acres	10'
Lot width	None
Maximum height	35'***
Table notes: *: The maximum average density shall be 8 single-family dwellings per 40 acres, which is an average lot size of 5 acres. Therefore, in order to have 2 lots you would need to have at least 10 acres of land in order to subdivide. Minimum lots size is 2 acres, which is allowed by clustering your total overall density in 1 area and leaving the rest as open space. **: From all lot lines and any road right-of-way, except as approved pursuant to a variance. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way. ***: Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers).	

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 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)

§ II-6.004 RR - RURAL RESIDENTIAL DISTRICT.

(A) *General.* The intent of the RR - Rural Residential District is to provide a district that will allow certain areas of the county to be maintained and utilized as large lot residential acreages. The RR - Rural Residential District shall generally be located where provisions can be made to adequately handle sewage disposal, and where the water supply, roads, and emergency services are easily and economically available.

(B) *Allowed uses.* In RR - Rural Residential District, the following uses are allowed:

- (1) Single-family dwellings including, but not limited to, modular homes, manufactured homes, mobile homes, and stick-built homes;
- (2) Transportation and utility easements and rights-of-way;
- (3) Community signs/on-premises signs, complying with Chapter 8 of this zoning title;
- (4) Historical monuments and structures;
- (5) ~~Accessory living quarters;~~
- (6) Accessory uses and structures (~~except accessory apartments~~);
- (7) Home occupations;
- (8) Home daycare;
- (9) Public parks and playgrounds;
- (10) General ranching and farming;
- (11) Forestry;
- (12) Forest preserves;
- (13) Personal use plant nurseries and greenhouses;
- (14) Sod and tree farming;
- (15) Noncommercial riding stables;
- (16) Noncommercial indoor/outdoor arenas; and
- (17) Raising of farm animals or poultry as long as they do not constitute a public nuisance.

(C) *Allowed special uses.* A building or premises may be used for the following purposes in the RR - Rural Residential District in conformance with the requirements prescribed herein. A building or premises

intended to be used for the following purposes, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title:

- (1) Temporary uses in conjunction with § II-10.007; and
- (2) Guest houses in conjunction with § II-10.012.

(D) *Conditional uses.* The following uses may be allowed in the RR - Rural Residential District under the provisions of Chapter 19 of this zoning title:

- (1) Utility substations;
- (2) Kennels, grooming, boarding, vet clinics, and animal shelters;
- (3) Churches, religious structures;
- (4) Schools;
- (5) Playgrounds and parks;
- (6) Fairgrounds and community centers;
- (7) Fire stations;
- (8) Antennas, microwave and communication towers;
- (9) Rental storage units, garages, buildings;
- (10) Bed and breakfast;
- (11) Specialty resort;
- (12) Water treatment, purification, storage, pumping, solid waste disposal sites;
- (13) Assisted living, elderly care;
- (14) Childcare center;
- (15) Light manufacturing when contained entirely in a building with size constraints;
- (16) Commercial indoor/outdoor arenas;
- (17) Commercial riding stables and academies;
- (18) Plant nursery;
- (19) Golf courses or country clubs, but not including miniature courses and driving tees not operated for commercial purposes;
- (20) Small and large wind energy systems per § II-10.001;
- (21) Personal use airstrip/heliport if the location of airstrip/heliport is at least 500 feet from the outer perimeter of the parcel(s);
- (22) Commercial recreation facility; and
- (23) Small and large scale sand, gravel, or rock extraction.

(E) *Density, setback, and lot requirement.*

General Requirements	
Density/minimum lot size	5-acre average and 2-acre minimum*
Front, side, and rear yard(s) over 2 acres	25'**
Front on existing lots under 2 acres	25'**
Side, and rear yard(s) on existing lots under 2 acres	10'
<p>Table notes:</p> <p>*: The maximum average density shall be 8 single-family dwellings per 40 acres, which is an average lot size of 5 acres. Therefore, in order to have 2 lots you would need to have at least 10 acres of land in order to subdivide. Minimum lots size is 2 acres, which is allowed by clustering your total overall density in 1 area and leaving the rest as open space.</p> <p>** : From all lot lines and any road right-of-way, except as approved pursuant to a variance. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way.</p> <p>***: Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers).</p>	

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 4; Ord. 16-01, passed 6-3-2016; Ord. 16-03, passed 7-21-2017;

§ II-6.005 SRD - SUBURBAN RESIDENTIAL DISTRICT.

(A) *General.* The intent of the SRD - Suburban Residential District is to provide a district that permits single-family dwellings and such supportive community facilities as parks, playgrounds, schools, libraries, and churches. It is intended that this district provide protection for those areas existing as, or planned for, single-family neighborhoods.

(B) *Allowed uses.* In SRD - Suburban Residential District, the following uses are allowed:

- (1) Single-family dwellings including, but not limited to, modular homes, manufactured homes, mobile homes, and stick-built homes;
- (2) Twin homes, townhomes, condominiums;
- (3) Transportation and utility easements and rights-of-way;
- (4) Community sign/on-premises signs, complying with Chapter 8 of this zoning title;
- (5) Historical monuments and structures;
- (6) Accessory uses and buildings provided such uses are incidental to the principal use and do not constitute a public nuisance;
- (7) Home occupations;
- (8) Home daycare; and
- (9) Public parks and playgrounds.

(C) *Allowed special uses.* A building or premises may be used for the following purposes in the SRD - Suburban Residential District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purposes, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title:

- (1) Temporary uses in conjunction with § II-10.007;
- (2) Agricultural tourism seasonal permit only allowed in the special use area described as Upper Valley/Lower Valley area (see Ag Tourism Overlay District). For purposes of this section only, the sale of agricultural tourism products is allowed. This permit shall follow § II-10.011; and
- (3) Guest houses in conjunction with § II-10.012.

(D) *Conditional uses.* The following uses may be allowed in the SRD - Suburban Residential District, under the provisions of Chapter 19 of this zoning title:

- (1) Utility substations;
- (2) Grooming, vet clinics (excluding boarding);
- (3) Churches, religious structures;
- (4) Schools;
- (5) Playgrounds and parks;
- (6) Fire stations;
- (7) Agricultural tourism product(s) stand exceeding 400 square feet in area;
- (8) Bed and breakfast;
- (9) Community hall, lodge, or meeting place;
- (10) Assisted living, elderly care, convalescent;
- (11) Family and group care facilities;
- (12) Historical monuments;
- (13) Plant nurseries;
- (14) Mobile home park;
- (15) Small wind energy systems per § II-10.001;
- (16) Farmers' market;
- (17) Raising of poultry or livestock; and
- (18) Small and large scale sand, gravel, or rock extraction.

(E) *Density, setbacks, and lot requirements.*

General Requirements	
Density/minimum lot size	2 acre(s)*

Front yard	25'**
Lot width	None
Maximum height	35'***
Side and rear yard(s)	10'**
<p>Table notes:</p> <p>*: The maximum average density shall be 1 residence per lot. Smaller lot sizes may be approved through a Planned Unit Development District by the County Commission. Additionally, those lots served by a sanitary sewer system or approved alternate centralized system, and served by a central or public water system shall not be less than 8,000 square feet. All sanitary sewer systems or other methods of sewage disposal must be approved by the County Commission, appropriate state agencies, and sanitary districts if applicable.</p> <p>** : From all lot lines and any road right-of-way, except as approved pursuant to a variance. A front setback will be used when it fronts a road right-of-way. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way.</p> <p>***: Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers).</p>	

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 5; Ord.16-01, passed 6-3-2016; Ord. 16-03, passed 7-21-2017)

§ II-6.006 GC - GENERAL COMMERCIAL DISTRICT.

(A) *General.*

(1) The GC - General Commercial District is a limited application zoning which occurs primarily in St. Onge and Nemo.

(2) The intent of the GC - General Commercial District is to provide a district that is similar to general commercial zonings found within municipalities and will: allow compact and convenient community oriented business; provide development standards that are compatible with slower speeds of abutting roads and highways; and permit retail, wholesale, businesses, and related services.

(B) *Allowed uses.* In GC - General Commercial District, the following uses are allowed:

- (1) Residential usage shall be limited to one dwelling for the owner or manager of an enterprise;
- (2) Mixed use structures;
- (3) Transportation and utility easements and rights-of-way;
- (4) Hotels, motels, rooming, and boarding houses;
- (5) Eating and drinking establishments;
- (6) On-premises signs, complying with Chapter 8 of this zoning title;
- (7) Retail establishments, including incidental manufacturing goods for sale at retail premises, when conducted entirely in an enclosed building;
- (8) Commercial recreation and amusement structures and uses conducted entirely in an enclosed building, such as theaters, bowling alleys, and pool rooms;
- (9) Public buildings and grounds other than schools;
- (10) Public service structures such as police stations, fire stations, and post offices;
- (11) The storage, display, and sale of new, used, repossessed, and traded-in merchandise, when conducted entirely in an enclosed building;
- (12) Barber and beauty shops, massage, and tanning salons;
- (13) Cleaning, dyeing, laundry, pressing, dressmaking, tailoring, garment, and shoe repair shops;
- (14) Businesses for repair of jewelry, eye glasses, hearing aids, and prosthetic appliances;
- (15) Business and vocational schools not involving operations of an industrial character;
- (16) Service and repair establishments, including automobile service and repair, but excluding airplane and railroad establishments;
- (17) Medical, dental, clinics, and laboratories;

- (18) Office spaces;
- (19) Bank and financial institutions;
- (20) Funeral homes/mortuary;
- (21) Bakeries;
- (22) Butcher shop;
- (23) Auditoriums, libraries, art galleries, museums, and other cultural structures;
- (24) Community centers;
- (25) Churches, religious structures;
- (26) Bus stations;
- (27) Parking lots and garages;
- (28) Building material sales, not including, concrete, asphalt plants, or lumberyards;
- (29) Group daycare, daycare center, group home;
- (30) Car wash;
- (31) Historical monuments and structures;
- (32) Mortuary; and
- (33) Nursery or greenhouse.

(C) *Allowed special uses.* A building or premises may be used for the following purpose in the GC - General Commercial District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purpose, where the prescribed requirement will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title: temporary uses in conjunction with § II-10.007.

(D) *Conditional uses.* The following uses may be allowed in GC - General Commercial District under the provisions of Chapter 19 of this zoning title:

- (1) Utility substations;
- (2) Antennas, microwave and communication towers;
- (3) Off-premises signage, billboards, complying with Chapter 8 of this zoning title;
- (4) Construction equipment sales;
- (5) Warehousing, wholesale, and distribution establishments;
- (6) Manufacturing and fabricating;
- (7) Kennels, animal hospitals;
- (8) Campground;
- (9) New and used motor vehicle sales, rental, and repair, including trailers, boat sales, motorcycles, and travel trailers;
- (10) New and used farm equipment sales;
- (11) Equipment sales, display, repair;
- (12) Lumberyard;
- (13) Commercial nursery or greenhouse;
- (14) Frozen food lockers provided there is no slaughtering of animals on the premises;
- (15) Transportation, truck stop, and terminal;
- (16) Recycling facility;
- (17) Uses which store or handle a regulated substance;
- (18) Contractors shop and storage yard;
- (19) Airport/heliport;
- (20) Small wind energy systems per § II-10.001; and
- (21) Small and large scale sand, gravel, or rock extraction.

(E) *Density, setbacks, lot, and other requirements.*

- (1) *General requirements.*

General Requirements	
Density/minimum lot size	2 acre(s) with residence and 1 acre without residence*

Front yard	25'***
Lot width	None
Maximum height	35'***
Side and rear yard	0'
<p>Table notes:</p> <p>*: Minimum lot size shall be 2 acres if a residence is on the property. If no residence is located on the property, the minimum lot size is 1 acre, unless a central sewer and water system are in place and parking can adequately be handled on less, and it is approved by the County Commission.</p> <p>** : From all lot lines and any road right-of-way, except as approved pursuant to a variance. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way.</p> <p>***: Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers)</p>	

(2) *Landscaping.* All required yards shall either be open landscaped and green areas or be left in a natural state, and shall be properly maintained in a sightly and well-kept condition.

(3) *Noise, odor, glare, and vibration.* Noise, odor, glare, and vibration shall not be discernible to an objectionable degree beyond the property lines where the condition emanates.

(4) *Exterior lighting.* Any lights used for exterior illumination shall shielded downthrow lighting onto subject property.

(5) *Smoke, dust, fumes, or gases.* Smoke, dust, fumes, or gases shall not be emitted at any point in concentrations of amounts that are noxious, toxic, or corrosive.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 6; Ord. 16-03, passed 7-21-2017)

§ II-6.007 RC - RECREATION COMMERCIAL DISTRICT.

(A) *General.* The intent of the RC - Recreation Commercial District is to provide a district that will allow limited commercial development. The proposed development must: primarily serve those persons who utilize the surrounding district for recreational purposes or act as a destination; be designed to primarily serve customers which result from traffic on major roads and highways shall not be permitted in the RC - Recreation Commercial District; and not conflict with the purpose of the district, preserving the natural beauty, resources, and open character of the lands.

(B) *Allowed uses.* All proposed developments within a district which are approved for recreational commercial permits must provide recreation-related goods and services. In RC - Recreation Commercial District, the following uses are allowed:

- (1) Residential usage shall be limited to one dwelling for the owner or manager of an enterprise;
- (2) Transportation and utility easements and rights-of-way;
- (3) Accessory uses and structures;
- (4) Hotels and motels;
- (5) Eating and drinking establishments;
- (6) Public parks and playgrounds;
- (7) On-premises signs complying with Chapter 8 of this zoning title;
- (8) Forest reserve;
- (9) Retail enterprises providing recreation goods, services, and activities;
- (10) Public service structures such as police stations, fire stations, and post offices;
- (11) Commercial recreation and amusement structures and uses, including theaters, amusement parks, bowling alleys, ice and roller rinks, archery ranges, and miniature golf;
- (12) Campgrounds;
- (13) Golf course;
- (14) Historic monuments and structures;
- (15) Roadside stands/vendor space; and

(16) Apartments/condos if on a community type sewer and water system.

(C) *Allowed special uses.* A building or premises may be used for the following purpose in the RC - Recreational Commercial District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purpose, where the prescribed requirement will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title: temporary uses in conjunction with § II-10.007.

(D) *Conditional uses.* The following uses may be allowed in the RC - Recreation Commercial District under the provisions of Chapter 19 of this zoning title:

- (1) Utility substations;
- (2) Antennas, microwave and communication towers;
- (3) Off-premises signage, billboards complying with Chapter 8 of this zoning title;
- (4) Private outdoor recreation facility;
- (5) Day or summer camp;
- (6) Commercial riding academies, arenas, stables;
- (7) Fairgrounds;
- (8) Gas station, convenience store;
- (9) Small wind energy systems per § II-10.001; and
- (10) Small and large scale sand, gravel, or rock extraction.

(E) *Density, setbacks, lot, and other requirements.*

(1) *General requirements.*

General Requirements	
Density/minimum lot size	2 acre(s) with residence and 1 acre without residence*
Front yard	25'**
Lot width	None
Maximum height	35'***
Side and rear yard	0'
<p>Table notes:</p> <p>*: Minimum lot size shall be 2 acres if a residence is on the property. If no residence is located on the property, the minimum lot size is 1 acre, unless a central sewer and water system are in place and parking can adequately be handled on less, and it is approved by the County Commission.</p> <p>** : From all lot lines and any road right-of-way, except as approved pursuant to a variance. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way.</p> <p>***: Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers).</p>	

(2) *Landscaping.* All required yards shall either be open landscaped and green areas or be left in a natural state, and shall be properly maintained in a sightly and well-kept condition.

(3) *Noise, odor, glare, and vibration.* Noise, odor, glare, and vibration shall not be discernible to an objectionable degree beyond the property lines where the condition emanates.

(4) *Exterior lighting.* Any lights used for exterior illumination shall shield downthrow lighting onto subject property.

(5) *Smoke, dust, fumes, or gases.* Smoke, dust, fumes, or gases shall not be emitted at any point in concentrations of amounts that are noxious, toxic, or corrosive.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 7; Ord. 16-03, passed 7-21-2017)

§ II-6.008 HSC - HIGHWAY SERVICE-COMMERCIAL DISTRICT.

(A) *General.* The intent of the HSC - Highway Service-Commercial District is to provide a district that will: allow compact and convenient highway-oriented business; provide development standards that will not

impair the traffic carrying capabilities of abutting roads and highways; and permit retail, wholesale, businesses, and related services.

(B) *Allowed uses.* In HSC - Highway Service-Commercial District, the following uses are allowed:

- (1) Residential usage shall be limited to one dwelling for the owner or manager of an enterprise;
- (2) Transportation and utility easements and rights-of-way;
- (3) Accessory uses and structures;
- (4) Hotels and motels;
- (5) Eating and drinking establishments;
- (6) Public parks and playgrounds;
- (7) On-premises signs complying with Chapter 8 of this zoning title;
- (8) Bait shop;
- (9) Service stations, garages, gas store, convenience store;
- (10) Souvenir, gift, jewelry, arts, and crafts shops;
- (11) Retail businesses;
- (12) Coin-operated laundry and dry cleaning establishments;
- (13) Public service structures such as police stations, fire stations, post offices;
- (14) Bus stations;
- (15) Auction houses; and
- (16) Mobile/modular home and sales office.

(C) *Allowed special uses.* A building or premises may be used for the following purpose in the HSC - Highway Service-Commercial District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purpose, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title: temporary uses in conjunction with § II-10.007.

(D) *Conditional uses.* The following may be allowed in HSC - Highway Service-Commercial District under the provision of Chapter 19 of this zoning title:

- (1) Utility substations;
- (2) Antennas, microwave and communication towers;
- (3) Off-premises signage, billboards complying with Chapter 8 of this zoning title;
- (4) Golf driving ranges;
- (5) Drive-in theaters;
- (6) Light manufacturing and fabricating;
- (7) Kennels, animal hospitals;
- (8) Campgrounds/RV parks;
- (9) Commercial recreation and amusement structures and uses, including theaters, amusement parks, bowling alleys, ice and roller rinks, archery ranges, and miniature golf;
- (10) Small wind energy systems per § II-10.001; and
- (11) Small and large scale sand, gravel, or rock extraction.

(E) *Density, setbacks, lot, and other requirements.*

(1) *General requirements.*

General Requirements	
Density/minimum lot size	2 acre(s) with residence and 1 acre without residence*
Front yard	25'***
Lot width	None
Maximum height	35'****
Side and rear yard(s)	0'
Table notes:	
*: Minimum lot size shall be 2 acres if a residence is on the property. If no residence is located on the	

property, the minimum lot size is 1 acre, unless a central sewer and water system are in place and parking can adequately be handled on less, and it is approved by the County Commission.

** : From all lot lines and any road right-of-way, except as approved pursuant to a variance. **All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way.**

*** : Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers).

(2) *Landscaping.* All required yards shall either be open landscaped and green areas or be left in a natural state, and shall be properly maintained in a sightly and well-kept condition.

(3) *Noise, odor, glare, and vibration.* Noise, odor, glare, and vibration shall not be discernible to an objectionable degree beyond the property lines where the condition emanates.

(4) *Exterior lighting.* Any lights used for exterior illumination shall shield downthrow lighting onto subject property direct light away from adjoining properties.

(5) *Smoke, dust, fumes, or gases.* Smoke, dust, fumes, or gases shall not be emitted at any point in concentrations of amounts that are noxious, toxic, or corrosive.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 8; Ord. 16-03, passed 7-21-2017)

§ II-6.009 C/LI - COMMERCIAL/LIGHT INDUSTRIAL DISTRICT.

(A) *General.* The intent of the C/LI - Commercial/Light Industrial District is to provide a district that will allow a compatible mixture of commercial and light industrial uses which are non-offensive and do not create obnoxious sounds, glare, dust, odors, fumes, or smoke.

(B) *Allowed uses.* In C/LI - Commercial/Light Industrial District, the following uses are allowed:

- (1) Residential usage shall be limited to one dwelling for the owner and/or manager of an enterprise;
- (2) Transportation and utility easements and rights-of-way;
- (3) Eating and drinking establishments;
- (4) On-premises signs complying with Chapter 8 of this zoning title;
- (5) Retail establishments, including incidental manufacturing goods for sale at retail premises, when conducted entirely in an enclosed building;
- (6) Public service structures such as police stations, fire stations, post offices;
- (7) Building material sales yard and lumber yard, including sale of rock, sand, gravel, and the like as an incidental art of the main business, but not including concrete, transit mix, or asphalt plants;
- (8) Accessory buildings and uses;
- (9) Towing/impound yard;
- (10) Public utility mains, lines, and underground facilities;
- (11) The storage, display, and sale of new, used, repossessed, and traded-in merchandise, when conducted entirely in an enclosed building;
- (12) Cleaning, dyeing, laundry, pressing, dressmaking, tailoring, garment, and shoe repair shops;
- (13) Bus stations;
- (14) Service and repair establishments, including automobile service and repair, but excluding airplane and railroad establishments;
- (15) Warehousing, wholesale, and distribution establishments;
- (16) Contractors shop and storage yard;
- (17) Light manufacturing and fabricating;
- (18) Building material sales, not including, concrete or asphalt plants;
- (19) Well-drilling businesses and accessory exterior equipment and material storage;
- (20) Business or professional offices;
- (21) Any kind of scientific research, manufacturing, compounding, assembling, processing, or treatment of products, distribution center, wholesaling, warehousing, and similar non-offensive light, clean industrial uses;
- (22) Auction house, except livestock;

- (23) Tire recapping and re-treading;
- (24) Water treatment, purification, storage, and pumping;
- (25) The following uses when constructed within a completely enclosed building: the manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: aluminum; bone; cellophane; canvas; cloth; cork; feathers; felt; fiber; fur; glass; precious or semiprecious metals or stones; shell; rubber; textiles; tin; iron; steel; and wood;
- (26) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity and gas;
- (27) The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like;
- (28) Blacksmith and machine shop;
- (29) Freight or truck yard and terminal; and
- (30) Distillation of products.

(C) *Allowed special uses.* A building or premises may be used for the following purposes in the C/LI - Commercial/Light Industrial District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purposes, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title:

- (1) Temporary uses in conjunction with § II-10.007; and
- (2) Adult oriented business in conjunction with § II-10.005.

(D) *Use limitations.*

- (1) All permitted uses of an industrial nature shall be operated entirely within an enclosed structure.
- (2) Noise, dust, odor, and glare shall be completely confined within an enclosed building.
- (3) Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compacted gravel, or equivalent surfacing.
- (4) Outdoor storage areas shall be concealed and screened from view from abutting streets and highways, and from adjoining residential zoning districts by fencing and landscaping.
- (5) No merchandise shall be displayed for sale (except for advertising purposes) nor shall any outdoor storage areas be permitted in any required front yard unless first approved.
- (6) No loading dock or loading area shall extend into a dedicated street or highway right-of-way.
- (7) The area between the building lines and the property lines is to be used either for open landscape or for off-street surfaced parking areas. If said area is to be landscaped, it shall be done according to the plans first approved in writing by the County Office of Planning and Zoning. Any landscaped areas shall be properly maintained thereafter in a slightly and well-kept condition. Parking areas shall likewise be maintained in good condition.

(E) *Conditional uses.* The following uses may be allowed in the C/LI - Commercial/Light Industrial District under the provision of Chapter 19 of this zoning title:

- (1) Utility substations;
 - (2) Antennas, microwave and communication towers;
 - (3) Off-premises signage, billboards complying with Chapter 8 of this title;
 - (4) Bulk storage;
 - (5) Frozen food locker, provided no slaughtering of animals;
 - (6) Vocational uses;
 - (7) Heavy manufacturing;
 - (8) Salvage yard;
 - (9) Childcare center only when it directly serves or is auxiliary to the needs of industrial plants or employees thereof;
 - (10) Small wind energy systems per § II-10.001; and
 - (11) Small and large scale sand, gravel, or rock extraction.
- (F) *Density, setbacks, lot, and other requirements.*

(1) *General requirements.*

General Requirements	
Density/minimum lot size	2 acre(s) with residence and 1 acre without residence*
Front yard	25'**
Lot width	None
Maximum height	35'***
Side and rear yard(s)	0'
Table notes: * Minimum lot size shall be 2 acres if a residence is on the property. If no residence is located on the property, the minimum lot size is 1 acre, unless a central sewer and water system are in place and parking can adequately be handled on less, and it is approved by the County Commission. On land with both public water and public sewer facilities - no minimum requirement. ** From all lot lines and any road right-of-way, except as approved pursuant to a variance. All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way. *** Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation (e.g., telecommunication towers, wind energy systems, water towers).	

(2) *Landscaping.* All required yards shall either be open landscaped and green areas or be left in a natural state, and shall be properly maintained in a sightly and well-kept condition.

(3) *Noise, odor, glare, and vibration.* Noise, odor, glare, and vibration shall not be discernible to an objectionable degree beyond the property lines where the condition emanates.

(4) *Exterior lighting.* Any lights used for exterior illumination shall shield downthrow lighting onto subject property.

(5) *Smoke, dust, fumes, or gases.* Smoke, dust, fumes, or gases shall not be emitted at any point in concentrations of amounts that are noxious, toxic, or corrosive.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 9; Ord. 16-03, passed 7-21-2017)

§ II-6.010 I-1 - GENERAL INDUSTRY DISTRICT.

(A) *General.* The intent of the I-1 - General Industry District is to provide a district that will allow areas in the county to be used for industrial purposes.

(B) *Allowed uses.*

(1) In I-1 - General Industry District, the following uses are allowed:

- (a) On-premises signs complying with Chapter 8 of this zoning title;
- (b) Retail or service use only when it directly serves or is auxiliary to the needs of industrial plants or employees thereof;
- (c) Public service structures such as police stations, fire stations, post offices;
- (d) Towing/impound;
- (e) Manufacturing, requiring yard storage, and fabrication;
- (f) Wholesaling, requiring yard storage and assembly;
- (g) Warehousing, requiring yard storage;
- (h) Building material sales yard and lumber yard;
- (i) Tire recapping and retreading;
- (j) Water treatment, purification, storage, and pumping;
- (k) Contractors equipment storage yard or plant, or rental of heavy equipment;
- (l) Railroad freight or truck yard and terminal;
- (m) Bulk storage;
- (n) Processing of junk, waste, discarded, or salvaged materials, machinery, or equipment, including automobile wrecking or dismantling;

- (o) Foundries;
- (p) General repair and service of trucks and construction equipment;
- (q) Power plants;
- (r) Tannery or curing or storage of raw hide;
- (s) Concrete batch plant, transit mix plant, and asphalt plant;
- (t) Concrete block, precast concrete, and prestressed concrete fabrication and storage;
- (u) Structural and reinforcing steel fabrication, welding, and storage;
- (v) Grain elevators;
- (w) Electrical generation facilities;
- (x) Airport/ heliport;
- (y) Auction houses not for the sale of livestock; and
- (z) Commercial sawmill/molding mill.

(2) Any of the allowed uses which may have regulated emissions or offensive odors that could extend beyond the property line, shall be considered a conditional use in this district, and shall be required to conform to such conditions as the Planning and Zoning Board and the County Commission determines appropriate to mitigate such emissions and/or odors.

(C) *Use limitations.*

- (1) All permitted uses shall be operated entirely within an enclosed structure.
- (2) Noise, dust, odor, and glare shall be completely confined within an enclosed building.
- (3) Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compacted gravel, or equivalent surfacing.
- (4) Outdoor storage areas shall be concealed and screened from view from abutting streets and highways, and from adjoining residential zoning districts by fencing and landscaping.
- (5) No merchandise shall be displayed for sale (except for advertising purposes) nor shall any outdoor storage areas be permitted in any required front yard.
- (6) No loading dock or loading area shall extend into a dedicated street or highway right-of-way.
- (7) The said area between the building lines and the property lines is to be used either for open landscape or for off-street surfaced parking areas. If the said area is to be landscaped, it shall be done according to the plans first approved in writing by the County Office of Planning and Zoning. Any landscaped areas shall be properly maintained thereafter in a sightly and well-kept condition. Parking areas shall likewise be maintained in good condition.

(D) *Allowed special uses.* A building or premises may be used for the following purpose in the I-1 - General Industry District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purpose, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements set out in Chapter 19 of this zoning title: temporary uses in conjunction with § II-10.007.

(E) *Conditional uses.* The following may be allowed in I-1 - General Industry District under the provision of Chapter 19 of this zoning title:

- (1) Utility substations;
- (2) Antennas, microwave and communication towers;
- (3) Off-premises signage, billboards complying with Chapter 8 of this zoning title;
- (4) Vocational schools;
- (5) Small and large scale sand, gravel, or rock extractive industry extraction;
- (6) Railroad repair businesses;
- (7) Solid waste disposal site;
- (8) Rendering;
- (9) Distillation of products;
- (10) Refining;
- (11) Paper manufacturing;
- (12) Tank farm, petroleum products terminal;

- (13) Salvage or junkyard;
 - (14) Childcare center only when it directly serves or is auxiliary to the needs of industrial plants or employees thereof;
 - (15) Slaughter of animals, including poultry killing or dressing;
 - (16) Salvage yard, junk yard;
 - (17) Small wind energy systems per § II-10.001; and
 - (18) Small and large scale sand, gravel, or rock extraction.
- (F) *Density, setbacks, lot, and other requirements.*
- (1) *General requirements.*

General Requirements	
Density/minimum lot size	2 acre(s) with residence and 1 acre without residence*
Front yard	25'***
Lot width	None
Maximum height	35'****
Side and rear yard(s)	0'

Table notes:

*: Minimum lot size shall be 2 acres if a residence is on the property. If no residence is located on the property, the minimum lot size is 1 acre, unless a central sewer and water system are in place and parking can adequately be handled on less, and it is approved by the County Commission. On land with both public water and public sewer facilities - no minimum requirement.

** : From all lot lines and any road right-of-way, except as approved pursuant to a variance. **All section lines shall be required to have a 25' setback from the edge of the Section Line Right-of-Way.**

*** Shall not exceed 3 stories, except as approved pursuant to a variance or otherwise specifically exempted from this limitation(e.g., telecommunication towers, wind energy systems, water towers).

- (2) *Landscaping.* All required yards shall either be open landscaped and green areas or be left in a natural state, and shall be properly maintained in a sightly and well-kept condition.
- (3) *Noise, odor, glare, and vibration.* Noise, odor, glare, and vibration shall not be discernible to an objectionable degree beyond the property lines where the condition emanates.
- (4) *Exterior lighting.* Any lights used for exterior illumination shall shield downthrow lighting onto subject property.
- (5) *Smoke, dust, fumes, or gases.* Smoke, dust, fumes, or gases shall not be emitted at any point in concentrations of amounts that are noxious, toxic, or corrosive.
- (Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 10; Ord. 16-03, passed 7-21-2017)

§ II-6.011 PUD - PLANNED UNIT DEVELOPMENT DISTRICT.

(A) *General.* To develop a PUD within the county, the property must be rezoned to a PUD designation. Rezoning shall be subject to approval of the concept plan and master plan by the County Commission. Approval of a PUD does not eliminate the requirements of subdividing. No building permits shall be issued until the master plan for the particular development phase has been approved by the County Commission. The procedure for a PUD rezoning will follow Chapter 17 of this zoning ordinance and the procedure listed in this chapter.

(B) *Intent.* The intent of the Planned Unit Development District (PUD) regulations is to permit greater flexibility, and consequently, more creative and imaginative design for the development of residential and nonresidential areas than generally is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of land uses, a higher level of urban amenities, preservation of natural scenic qualities of open space, environmental protection, concurrent and adequate public facilities, timing, phasing, and sequencing for the proposed

development within the PUD, all contingent upon completion of its review process. In addition, reasonable assurance to the developer is intended regarding ultimate approval before expending complete design monies while also providing county officials with assurances that the project will retain the character envisioned and protect public health, safety, and general welfare. All PUD requests shall include the design standards set out in Title I of this code and shall conform to Chapter 17 of this zoning title.

(C) *Objectives.* To carry out the above stated intent, a PUD District should provide the following, as appropriate:

(1) Nonresidential land uses, if any, which provide convenient service, employment, and access, yet do not conflict with residential uses;

(2) Conservation of natural topographical and geological features with emphasis upon:

(a) Conserving existing surface and subsurface water resources;

(b) Preserving significant natural environmental features;

(c) Preventing soil erosion; and

(d) Protecting surface and ground water and other environmental resources, including green spaces, significant habitat, and land with exceptional scenic beauty.

(3) Can efficient network of streets and utilities appropriate to serve the land uses within the PUD District;

(4) To ensure that adequate public facilities and services, identified in the ordinances of the county, are available to serve the PUD development as the demands for those facilities are created;

(5) A concept plan to convey the overall concept and to guide and coordinate any phased development; a master plan providing substantially complete construction and engineering drawings; and

(6) To ensure the implementation of the policies and criteria contained in this title by providing the necessary prerequisites, authority, and criteria for the county to enter into a development agreement with the applicant that comprises specific conditions and contains an integrated development scheme for a particular phase or phases of development, and contains maps, diagrams, and other appropriate materials by which the applicant agrees to the conditions, construction, and installation of off-site or on-site facilities consistent with the provisions of this title.

(D) *Allowed uses.* In PUD - Planned Unit Development District, the following uses are allowed:

(1) Residential uses: residences may be a variety of housing types and ownership types. Single-family detached, attached single-family, cluster homes, twin homes, town houses, and multifamily residential developments may be permitted;

(2) Office uses: such uses shall be designed with respect to their nature, development intensity, and location so as to primarily serve the residents of the PUD. Office developments shall be designed and landscaped in a manner which is compatible with residential development and which provides for traffic flow or circulation that does not interfere with residential areas inside or outside of the PUD;

(3) Commercial uses: such uses shall be designed with respect to their nature, development intensity, and location. Commercial development shall be designed and landscaped in a manner which is compatible with residential development and which provides for traffic flow or circulation that does not interfere with residential areas inside or outside the PUD. No outside storage of materials or equipment shall be permitted in commercial areas in a PUD, unless specifically approved by the County Commission;

(4) Light industrial uses: industrial uses shall include those customarily considered light industrial. Industrial development within a PUD shall be designed and landscaped in a manner which is compatible with residential development and which provides for through traffic circulation that does not interfere with residential areas inside or outside the PUD. Industrial areas occupying more than three acres shall be designed as an industrial park with covenants and restrictions concerning building appearance and landscaping;

(5) Religious and educational facilities and institutions;

(6) Public and private recreation facilities and their ancillary services;

(7) Public and private transportation, utility, and public safety facilities;

(8) Telecommunication facilities; and

(9) Any allowed use which is described in this title may be proposed. All uses shall be listed within the written report included in the concept plan.

(E) *Prohibited uses.* In PUD - Planned Unit Development District, the following uses are prohibited:

- (1) Armories;
- (2) New and used vehicle or machinery sales and service;
- (3) Landfills and junkyards;
- (4) Slaughter houses, concentrated animal feeding operation;
- (5) Manufactured home sales;
- (6) Building material sales;
- (7) Truck terminals associated with stand-alone warehouse facilities;
- (8) Uses requiring unscreened outside storage;
- (9) Industrial uses; and
- (10) Off-premises signage.

(F) *Conditional uses.* In PUD - Planned Unit Development District, conditional uses are allowed.

(G) *Minimum requirements for improvements and design.*

(1) *Area regulations.*

(a) The minimum acreage for a PUD shall be at least 25 contiguous acres;

(b) Front, side, and rear setbacks, lot width, and size are governed by the minimum requirements for parking and open space as described in divisions (G)(2), (G)(5), and (G)(6) below; and

(c) Height restrictions shall be three stories, unless otherwise approved by County Commission.

(2) *Parking.* For individual uses, or approved as a comprehensive parking plan for integrated uses or for overall development, as regulated in Chapter 7 of this zoning title.

(3) *Buffering/landscaping.* Each application shall include a comprehensive landscaping plan showing location and species of all planted materials and an irrigation plan. There shall be buffering and/or berming, as recommended by the Planning and Zoning Board and County Commission, for the purpose of buffering the adjacent properties from the PUD. However, in cases where nonresidential uses in the PUD are adjacent to residentially zoned property, such uses shall be visually screened by a landscape berm or natural trees. The use of fire resistive plant species is encouraged (see County Community Wildfire Protection Plan for list of plant species).

(4) *Other site improvements.* Signage, lighting, exterior building materials, and other features of the project shall be designed and constructed with the objective of creating an integrated and controlled development, consistent with the character of the community, the surrounding developments, and the site's natural features. All areas must meet this title.

(5) *Common open space.* A minimum of 25% of the total site acreage included in the application shall be preserved as common recreation and meaningful open space. The area so occupied may be applied, at the discretion of the Planning and Zoning Board and County Commission, to satisfy a percentage of the total common space requirement. Waterbodies and land located within the 100-year floodplain may be used to partially fulfill open space requirements; calculations for such may not exceed 50% of the required open space. Parking areas, road rights-of-way, and minimum yards in spacing between dwellings may not be included in determining open space. Any and all open space lands shall be held in common ownership by the dwelling unit owners. To ensure that all common open space in the PUD will be used as intended, the necessary restrictions or covenants will be put in each deed. Such deed restrictions or covenants shall run with the land in order to protect both present and future property owners. The covenants and restrictions shall prohibit the reduction or sale of any common open space.

(6) *Bonding.* Prior to beginning construction of each development phase of the PUD, the County Commission shall require the developer to post a performance bond or letter of credit, both in form and amount acceptable to the county, guaranteeing that all public improvements and common open areas will be constructed according to the approved master plan. All bonding requirements shall conform to Title I, Chapter 7 of this code.

(7) *Availability of public services.* PUD districts shall be so located with respect to major streets and

highways or other transportation facilities so as to provide direct access to such districts without creating undue traffic burdens along streets in residential neighborhoods outside such districts.

(8) *Utility systems.* PUD districts shall be so located in relation to sanitary sewers, water lines, storm drainage systems, and other utility systems and installations that neither extension nor enlargement will be required in manner, form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would development in a form generally permitted in the area. Such districts shall be so located with respect to schools, parks, playgrounds, and other public facilities required so as to have access in the same degree as would development in a form generally permitted in the area. However, the location of the PUD district may be approved if the developer will:

(a) Provide private utilities, facilities, or services approved by the public agencies which would normally provide such utilities, facilities, or services as substituting on an equivalent basis, and assure their satisfactory continuing operation and maintenance permanently or until equivalent utilities, facilities, or services are available;

(b) All roads, sidewalks, sewer facilities, utilities, and drainage shall be constructed according to the requirements of Title I of this code and any other county ordinances. In the event of a conflict between this section and Title I of this code or any other county ordinances, the more stringent regulations shall apply;

(c) All utilities, e.g., electrical, telephone and the like, shall be underground, unless allowed otherwise by the County Commission. These utilities shall be provided in accordance with the rules, resolutions, and/or regulations established by the appropriate governmental agency;

(d) Each building or structure for business, trade, or industry shall provide space for the loading and unloading of vehicles off the right-of-way of the street or public alley. Such space shall meet all loading and unloading regulations in § II-7.003;

(e) Covenants and restriction for the property within the PUD District are required and must be recorded in the Register of Deed's office of the county prior to the approval of a final plat or issuance of a building permit for a structure on the property. These restrictions will run with the land so that if it is subdivided or developed in phases, the covenants and restrictions will still be enforced; and

(f) Covenants and restrictions shall:

1. Be based on the approved master plan and development agreement of the approved PUD District;

2. Subject each person or person taking title to land located within the property to the terms of conditions of the covenants and restrictions;

3. Subject each property and owner within the development to the approved master plan and development agreement for the PUD District;

4. Subject each property and owner to general rules and conditions regarding the operations and administration of various aspects of the property/community;

5. Provide for creation of a homeowners' association (HOA) with mandatory membership for each owner or person taking title to the land located within the property and require the collection of assessments from owners in an amount sufficient to pay for its functions. The HOA shall be established and active prior to the transfer or sale of any parcel within the PUD to a third party and such HOA must be properly disclosed to all property owners at the time of contract and as required by state and federal law;

6. Provide for ownership, development, management, and maintenance of private open space, private community facilities, private community meeting halls, and other common areas; and

7. Establish design guidelines that include basic architectural standards, weed control, and fire plan guidelines and procedures for compliance to ensure consistent development of the entire PUD.

(H) *Concept plan requirements.* The concept plan is an initial plan for tract (s) of land depicting a general configuration and description of potential private and public uses. The concept plan is intended to be flexible and will provide an overall framework within which specific development standards will be met through the master plan. A master plan may be broken into phases. The concept plan shall include, but is not limited to, the following:

- (1) A written report explaining the type, nature, intent, and characteristics of the proposed development;
- (2) Area location or orientation map of the property;

- (3) Proposed name or title of project and name of the engineer, architect, or developer;
 - (4) Scale of one inch equals 200 feet or larger, acreage in total tract, north arrow, and date;
 - (5) Existing topography in ten-foot contour intervals or less. Contours may be interpolated from U.S.G.S. quadrangle maps;
 - (6) Existing wooded areas, streams, lakes, 100-year floodplain, and any other physical conditions affecting the site;
 - (7) Existing historical assets located on the property;
 - (8) Proposed street and lot layout;
 - (9) Proposed buffers, and natural features such as surface drainage and open water;
 - (10) Delineation of proposed uses, including open space, and net acreage in each;
 - (11) Proposed density calculations, in units per acre, for residential uses;
 - (12) General location, square footage, and height of proposed nonresidential buildings;
 - (13) Delineation of specific areas designated for phased development and proposed dates for beginning and completing construction of each development phase or stage;
 - (14) Proposed amenities, such as schools, parks, and recreational facilities;
 - (15) General statement indicating source of potable water and wastewater disposal method;
 - (16) Complete legal description of the parcel(s); and
 - (17) If development is to occur in stages then a detailed phasing plan shall be provided, it shall be a narrative form incorporated into the master plan. It shall include a breakdown of all land use types.
- (I) *Master plan requirements.* The master plan for each development phase shall conform to the county ordinances and shall include, but not be limited to, the following:
- (1) Area location or orientation map of the property;
 - (2) Proposed name or title of project, phase number, and name and certification of the engineer, architect, or surveyor;
 - (3) Scale of one inch equals 100 feet or larger, acreage in total tract, north arrow, and date;
 - (4) Existing topography by a registered surveyor along with the surveyor's name, registration number, seal, and date;
 - (5) Name of all jurisdictions in which the development is located and all political boundaries which cross or form any property boundary line of the development phase;
 - (6) Sufficient data to readily determine and reproduce accurately on the ground the location, bearing, and length of every road and alley line, lot line, easement, boundary line, and building line, whether curved or straight. This shall include the radius, point of tangency, and other data for curved property lines and curved roads, to an appropriate accuracy and in conformance with good surveying practice;
 - (7) Names of owner of record of all adjoining land and all property boundaries, watercourses, roads, easements, utilities, and other such improvements, which cross or form any boundary line of the development phase;
 - (8) Roads and alleys including their right-of-way width and name;
 - (9) Lot lines, minimum building setback lines, and lot and block numbers;
 - (10) All dimensions shall be to the nearest one-tenth of a foot and all angles shall be to the nearest minute;
 - (11) Location, dimension, and purpose (e.g., water, gas, cable) of all easements;
 - (12) Location of all buffers;
 - (13) Number to identify each lot or site;
 - (14) Show all watercourses, wetlands, and expected limits of the 100-year floodplain;
 - (15) Proposed topography including finish floor elevations and location of all retention and detention basins for stormwater control;
 - (16) Location of existing adjoining property lines;
 - (17) Area in each subdivided tract in square feet;
 - (18) Final engineering drawings of all roads, water, sanitary sewer, and storm drainage systems;
 - (19) Density calculations, in units per acre, for residential uses;

(20) Location, square footage, and height of proposed nonresidential buildings; and

(21) All items listed in Title I, Chapter 5 of this code.

(J) *Procedure.*

(1) An application for approval of a PUD may be filed by any person having an interest in the property to be included in the PUD. The PUD application shall be filed with written consent from all of the recorded owner(s) of the property included in the development and with written consent from all holder(s) of an equitable interest in such property. Such consent shall contain a statement that the applicant is authorized to represent the owner(s) in pursuit of a PUD application and that such owner(s) shall agree to be bound by the decision of the County Commission in the event such application is approved. All of the land in a PUD shall be owned by an individual, by a corporation, or by a single legal entity before approval of the final plat. The owner shall be required to provide evidence of full ownership interest in the land, by legal title or the execution of a binding sales agreement before final approval of the final plat. Individual properties may be sold after approval of the final plat subject to private deed covenants that assure the continuance of the PUD as originally approved and developed.

(2) Before submitting the PUD application and the concept plan for approval as a PUD, the developer shall meet with the Planning Director, County Highway Superintendent, Director of Equalization, Register of Deeds, and any other such personnel as may be deemed necessary to determine the feasibility and suitability of the application. This step is required so that the developer may obtain information and guidance from county officials before entering into any binding commitments or incurring substantial expenses of the site and plan preparation. The pre-submittal meeting is a prerequisite to the county's obligation to accept and act upon an application for zoning or rezoning to a PUD District.

(3) A rezoning application and ten copies of the concept plan, along with the fee established by the County Commission, shall be submitted to the Planning Director 22 days prior to a Planning and Zoning Board meeting.

(4) The Planning Department shall review the completed change of zoning application and concept plan for compliance with this title.

(5) If the Planning Department finds the application and the concept plan in compliance with this title, a Planning and Zoning informational meeting will be scheduled for the next regular meeting.

(6) The informational meeting for the change of zoning and the concept plan will be held in front of the Planning and Zoning Board. The applicant has the option to take the Board's comments and create the master plan.

(7) After the informational meeting has been held, a public hearing will be scheduled in front of the Planning and Zoning Board for the master plan.

(8) The Planning Department will prepare the notice of hearing letters and the property owner's list of those persons who own land within 500 feet of the subject property.

(9) The Planning Department will notify the applicant when the property owner's list and the notice of hearing letters have been prepared. The applicant must send a copy of the notice of hearing letter to each of the property owners on the list by certified mail with return receipt requested. The notice letters must be mailed no less than seven days prior to the date of the public hearing. The white receipts for certified mail must be returned to the Planning Department prior to the date of the public hearing. The green return receipt cards must be returned to the Planning Department prior to the file being closed. These are retained in the Planning Department as part of the official record to document that the required mailings were completed. If the mailing has not been completed as stated herein, the hearing must be continued to the next Planning and Zoning meeting and the applicant shall be required to re-notify the affected property owners of the rescheduled hearing date.

(10) A notice of public hearing sign will be furnished by the Planning Department. The sign must be posted no less than ten days prior to the date of the hearing and must remain posted until final action by the Planning and Zoning Board.

(11) The Planning Department will submit legal notice to the local newspaper(s). The notice shall state the date the Planning and Zoning Board will review and consider the change of zoning application.

(12) The Planning Department shall create a staff report with recommendations to the Planning and Zoning Board for either approval, approval with conditions, or denial of the application.

(13) The Planning and Zoning Board shall consider the change of zoning application and master plan and public comment regarding the application's technical compliance with the ordinance after receiving and reviewing the Planning Department's recommendation.

(14) (a) The Planning and Zoning Board shall make recommendation to approve, approve with conditions, or deny the change of zoning application and master plan within 30 days of the initial hearing of the application.

(b) If the action is to deny the change of zoning application and master plan, the reasons for such action shall be stated in the minutes and specific reference shall be made to the requirements not met.

(15) After the Planning and Zoning Board makes recommendation to the County Commission, the Planning Department shall schedule a first reading in front of the County Commission, which shall also be a public hearing.

(16) The applicant shall be required to re-notify the adjacent property owners in the same manner as listed in division (J)(8) above. The Planning Department will again submit legal notice to the local newspaper(s).

(17) After the first reading has been completed, the County Commission shall schedule a second reading for a final decision at the next regular County Commission meeting. No notification is needed for the second reading.

(18) Within 45 days of the receipt of the Planning and Zoning Board's recommendation, the County Commission shall take action to approve or deny the change of zoning request and the master plan.

(19) Before the change of zoning can become effective the Planning Department shall publish the official change of zoning in the legal newspaper(s). A change of zoning takes effect 20 days after publication.

(K) *Considerations.* This decision shall be based upon, but not limited to, the consideration of the following:

- (1) Adjacent land use;
- (2) Distance from municipalities;
- (3) Type of development (size and density);
- (4) Access from state and county road systems;
- (5) Location appropriate for requested zone;
- (6) Floodplain;
- (7) The effect of the proposed change of zoning upon:
 - (a) Housing, existing and available;
 - (b) Public services;
 - (c) Water;
 - (d) Sewer;
 - (e) Public roads;
 - (f) Parks and recreation within the county; and
 - (g) Open space areas.

(8) Proposed concept plan and master plan with time schedule; and

(9) The cumulative effect of the proposed change when considered with previously approved changes of zoning within the area.

(L) *Amendments to a PUD.*

(1) *Major amendments.* Major amendments to a PUD master plan require that the applicant modify the approved master plan, according to division (I) above. Upon the filing of any application for a major amendment for a PUD, the applicant shall pay the county the appropriate fee as designated in Chapter 21 of this zoning title. These fees shall be utilized to help defray necessary administrative costs of processing the applications as required. Amendments shall be considered major if they include any of the following:

- (a) A change in the PUD boundary;
- (b) Any change in the height, density, setback, or lot coverage development standards, as approved in

the master plan;

- (c) Any change in the location of a land use depicted on the master plan map;
- (d) Any addition to the list of uses in the master plan;
- (e) Any change to the design guidelines that is inconsistent with the intent of the PUD as described in the master plan; and
- (f) Decrease in open space.

(2) *Minor amendments.* Minor amendments to a PUD master plan require a written request including all relevant information. Upon the filing of any application for a minor amendment for a PUD, the applicant shall pay the county the appropriate fee as designated in Chapter 21 of this zoning title. These fees shall be utilized to help defray necessary administrative costs of processing the applications as required. Amendments not meeting the criteria for a major amendment shall be deemed to be minor amendments and may be administratively approved by the Planning Department.

(M) *Development agreements.*

(1) Applicant and the county may enter into a development agreement where the applicant shall agree to provide necessary public facility or facilities. This would be at the applicant’s sole costs and expense. The agreement shall provide that all such public facilities shall be constructed or bonded prior to the issuance of a building permit for all or any portion of the proposed development.

(2) A development agreement shall be in form satisfactory to the County Attorney. The development agreement is subject to the approval of the County Commission as part of the approval process for the PUD master plan and final plats. The development agreement shall, at a minimum, include the following:

- (a) A legal description of the land subject to the agreement and the names of the legal and equitable owners;
- (b) The duration of the agreement;
- (c) A general description of the development, the development uses permitted on the land including proposed densities and building intensities and height, and a description of the impacts and benefits of the development;
- (d) A description of the public facilities that will service the development, including those that are to be dedicated, constructed, or financed by the developer;
- (e) The date of construction of such new facilities will be completed and operation of the facilities will begin;
- (f) A schedule to assure public facilities is available concurrent with impacts of development;
- (g) A description of any reservations or dedications of land for public purposes;
- (h) A description of all local development permits approved or needed to be approved for the development of the land;
- (i) A provision that all public facilities to be provided by the applicant will be constructed or bonded prior to the issuance of a building permit for all or any portion of the proposed development;
- (j) A development agreement may provide that the entire development or any phase be commenced or concluded within a specific time period; and
- (k) Such other provisions as are determined by the county to be necessary for the public health, safety, and welfare.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 11)

§ II-6.012 PUD - MYSTIC MINER SUBDIVISION.

(A) *Planned Unit Development Districts.* Planned Unit Development Districts shall be as enumerated below and shall include the regulations set forth herein: COZ #287 Mystic Miner PUD.

(B) *Intent.* The regulations set forth in this section and as set forth elsewhere in this title and specifically references herein are the district regulations in the Mystic Miner Planned Unit Development District.

(C) *Scope.* The Mystic Miner Tract includes 531 total acres. The maximum density allowed is for 531 units, inclusive of road right-of-way, compromised of various types of residential and commercial units, according to the chart set below.

<i>Type</i>	<i>West of Terry</i>	<i>East of Terry</i>	<i>Total</i>
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	<i>Summit Road</i>	<i>Summit Road</i>	
Highway service commercial	0	2	2
Recreation commercial	95	50	145
Road right-of-way	28	18	46
Suburban residential (multifamily)	7	7	14
Suburban residential (single family)	174	150	324
Totals	276	209	531
Table notes: The Mystic Miner Tract shall include a minimum of 25% of designated common open space, which is 133 acres.			

(D) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning. Additionally, the defined term used herein shall be in accordance with those definitions as found in this code, unless indicated otherwise herein.

COMMERCIAL UNIT. An allowed commercial use or uses conducted on at least one acre and meeting all other applicable requirements of this code. When more than one acre is needed to meet the requirements of this code, the total number of **COMMERCIAL UNITS** available shall be diminished by a number equivalent to the number of whole acres required to support any given commercial use or uses.

(E) *Road improvements.* All streets shall be required to be constructed per Title I of this code.

(F) *Drainage and erosion control plans.* Drainage and erosion controls plans shall be required to be constructed per Title I of this code.

(G) *Water system improvements.* The Mystic Miner Subdivision will be supplied with domestic water from the existing Deer Mountain Water System. The water is supplied from the Lead-Deadwood Sanitary District. The developer shall upgrade the Deer Mountain Water System to meet future water needs. The principal components of the improvement plan are as follows:

- (1) New water supply contract with Lead-Deadwood Sanitary District for up to 600 gpm;
- (2) Reconstruct the Engelwood pump station to enhance supply;
- (3) The water system will provide pumping capacity equal to projected peak-day demands;
- (4) New water treatment plant at Deer Mountain with initial capacity of 300 gpm and space for future expansion to 600 gpm;
- (5) Approximately 0.4 MG raw water storage tank and raw water transmission pipeline to supply untreated water to the treatment plant;
- (6) New treated water storage for approximately 0.8 MG in three separate storage tanks serving three separate pressure zones;
- (7) Booster pumping stations to lift treated water to each pressure zone;
- (8) Distribution piping ranging from six-inch to 12-inch diameter, sized to meet peak domestic demands and fire flows (1,000 gpm for single family, 1,500 gpm for multifamily and commercial);
- (9) An emergency power supply will be included in the water treatment plant and key pumping units for maximum reliability;
- (10) Radio telemetry is planned to provide centralized operation and control of all facilities, and to provide advanced warning of impending problems;
- (11) Water meters will be installed on all new and existing customer service lines;
- (12) Existing storage tanks within Deer Mountain residential areas will be renovated and retained in service;
- (13) Existing residential area distribution piping will be substantially retained, but selected improvements will be completed to improve system hydraulics and operation;
- (14) System improvements will be completed in phases corresponding to development phasing. High priority improvements include the water treatment plant, raw water storage tanks, and new storage and

distribution piping for lodge and base area developments;

(15) Water user relates for existing and future customers have not been established at this time and will depend in part upon actual construction costs; and

(16) Mystic Miner will continue to use the untreated water from the Lead-Deadwood Sanitary District for snowmaking activities and will be transferred separately from the domestic water supply.

(H) *Wastewater system.*

(1) Mystic Miner plans to construct a centralized wastewater collection and treatment system for all proposed commercial and multifamily properties. The central sewer system will also provide sewer service to all single-family residential properties with lot sizes less than two acres. An on-site individual septic system will provide sewer for large lots (two acres and more) located west of Terry Peak Summit Road.

(2) The water and sewer treatment facilities shall be located in the same location as the water treatment plant, east of the ski lodge.

(3) Treated effluent will be stored and used for snowmaking when conditions warrant.

(4) Water will be treated to cold-fishery standards and will meet all State DENR requirements.

(5) The wastewater system shall be a centralized system which has been approved by the State DENR, with the understanding that the first phases shall be allowed to have a septic system, but must be designed by a state licensed engineer and installed by a state licensed installer. The septic systems shall be pumped as needed and at the time of the centralized sewer system being activated all existing septic tanks shall be either removed or tied into the centralized systems. As the correct amount of homes have been built into this subdivision, the centralized sewer system shall be hooked up.

(I) *Subareas.*

(1) *Generally.*

(a) Prior to Planning and Zoning Board approval of the master plan-preliminary plat, the applicant shall submit a sub area map depicting the boundary of each subarea for COZ #287 Mystic Miner Planned Unit Development.

(b) All subareas shall be designed and built in conformance with Title I of this code including, but not limited to, the following:

1. Amendments to the PUD shall be in conformance with § II-6.011(L);

2. The buildings and site shall be designed to be consistent with the intent of division (B) above;

3. Prior to County Commission approval of the final plat, the homeowners' association and covenants attached to this PUD, shall be recorded in the County Register of Deed's office;

4. Building permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans and building permit requirements to be reviewed and approved by the Planning and Zoning Office;

5. All structures have the required 911 addressing posted and approved by the County 911 Coordinator;

6. Prior to Planning and Zoning Board approval of the preliminary plat, the applicant shall submit and complete a fire plan written by a wildfire hazard assessment contractor;

7. Prior to Planning and Zoning Board approval of the preliminary plat, the applicant shall submit and complete a weed plan written by the County Invasive Species Department;

8. All section lines shall be vacated prior to any building permit being issued;

9. This PUD shall be reviewed each time a phase is completed and/or a new phase is being started or bonding is released;

10. Parking shall be regulated in conformance with Chapter 7 of this zoning title; and

11. Signs shall be regulated in conformance with Chapter 8 of this zoning title.

(2) *Subarea "A" - Suburban Residential District (Single - Multifamily Residential Area).*

(a) *Intent.* The intent of the SRD - Suburban Residential District is to provide a district that permits single-family and multifamily dwellings and such supportive community facilities as parks, playgrounds, schools, libraries, and churches. It is intended that this District provide protection for those areas existing as, or planned for, single-family and multifamily neighborhoods.

(b) *District boundary description.* SRD - Suburban Residential District land use is planned for both the east and west slopes of the Mystic Miner Tract. Approximately 157 acres are located on the east slope. The east portion of land extends from the north property boundary line to the south property boundary line and is located between the existing ski lodge to the east and extends to within 250 feet of Terry Summit Road to the west. Approximately seven acres of the total 157 acres is located adjacent to the northwest edge of the peak of Deer Mountain. Approximately 181 acres located on the west slope is planned for suburban residential land use. This portion of property extends from the north property boundary line to the south property boundary line and begins approximately 250 feet west of Terry Summit Road and extends to within approximately 1,000 feet of the west property boundary line.

(c) *Allowed uses.* Same as set forth in § II-6.005(B).

(d) *Conditional uses permitted.* The following uses may be allowed in the SRD - Suburban Residential District, under the provision of § II-6.005(D):

1. Utility substations;
2. Grooming, vet clinics (excluding boarding);
3. Churches, religious structures;
4. Schools;
5. Playgrounds and parks;
6. Fire stations;
7. Antennas, microwave and communication towers;
8. Rental storage units, garages, buildings;
9. Roadside stand/vendor space;
10. Bed and breakfast;
11. Community hall, lodge, or meeting place;
12. Assisted living, elderly care, convalescent;
13. Family and group care facilities;
14. Agricultural crops; and
15. Historical monuments.

(e) *Density, area, setbacks, width, and height.* Same as set forth in § II-6.005(E), except where noted as follows: all structures be setback a minimum of 58 feet from the centerline of all section lines.

(3) *Subarea "B" - Recreational Commercial District.*

(a) *Intent.* The intent of the RC - Recreation Commercial District is to provide a district that will allow limited commercial development. The proposed development must primarily serve those persons who utilize the surrounding district for recreational purposes or act as a destination; development designed to primarily serve customers which result from traffic on major roads and highways shall not be permitted in the Recreation Commercial District; and the proposed development must not conflict with the purpose of the district preserving the natural beauty, resources, and open character of the lands.

(b) *District boundary description.* RC - Recreation Commercial District land use is planned for both the east and west slopes of the Mystic Miner Tract. Approximately 50 acres are located on the east slope. The east portion of recreation commercial land consists of the existing lodge and surrounding area totaling approximately 25 acres as well as a 250-foot strip from the north property boundary line to the south property boundary line. This portion is located adjacent to the east side of Terry Summit Road and extends 250 feet east. Approximately 95 acres located on the west slope is planned for recreation commercial land use. This portion of property consists of land adjacent to the west side of Terry Summit Road and extends west approximately 250 feet. The land use area extends from the north property boundary line to the south property boundary line. The west recreation commercial land use area also includes land adjacent to the west property boundary line, which extends 1,000 feet east and from the north property boundary line to the south property boundary line.

(c) *Allowed uses.* Same as set forth in § II-6.007(B).

(d) *Conditional uses permitted.* The following uses may be allowed in the RC - Recreation Commercial District, under the provision of § II-6.007(D):

1. Utility substations;
2. Antennas, microwave, and communication towers;
3. Off-premises signage, billboards;
4. Kennel, animal hospital;
5. Private outdoor recreation facility;
6. Day or summer camp;
7. Commercial riding academies, arenas, stables;
8. Fairgrounds;
9. Plant nursery;
10. Cemetery;
11. Group daycare;
12. Apartments, condos; and
13. Gas station, convenience store.

(e) *Density, area, setbacks, width, and height.* Same as set forth in § II-6.007(E), except where noted as follows: all structures be set back a minimum of 58 feet from the centerline of all section lines.

(f) *Other regulations.* Each proposed commercial use shall be required to submit a development plan pursuant to Chapter 14 of this zoning title prior to the issuance of a building permit.

(4) *Subarea "C"- Highway Service-Commercial District.*

(a) *Intent.* The intent of the HSC - Highway Service-Commercial District is to provide a district that will: allow compact and convenient highway-oriented business; provide development standards that will not impair the traffic carrying capabilities of abutting roads and highways; and permit retail, wholesale, businesses, and related services.

(b) *District boundary description.* HSC - Highway Service-Commercial District land use is planned for the east slope of the Mystic Miner Tract. Approximately two acres located near the existing Mystic Miner Lodge are planned for this land use. The property is located adjacent to the south side of Deer Mountain Road and is approximately 600 feet east of the lodge. The property extends approximately 700 feet east of Aspen Drive and approximately 125 feet south of Deer Mountain Road.

(c) *Allowed uses.* Same as set forth in § II-6.008(B).

(d) *Conditional uses permitted.* The following uses may be allowed in the HSC - Highway Service-Commercial District, under the provision of § II-6.008(D):

1. Utility substations;
2. Antennas, microwave and communication towers;
3. Off-premises signage, billboards;
4. Golf driving ranges;
5. Drive-in theaters;
6. Racetracks;
7. Light manufacturing and fabricating;
8. Kennels, animal hospitals;
9. Campgrounds/RV parks; and
10. Commercial recreations and amusement structures and uses, including theaters, amusement parks, bowling alleys, ice and roller rinks, archery ranges, and miniature golf.

(e) *Density, area, setbacks, width, and height.* Same as set forth in § II-6.008(E), except where noted as follows: all structures be setback a minimum of 58 feet from the centerline of all section lines.

(f) *Other regulations.* Each proposed commercial use shall be required to submit a development plan pursuant to Chapter 14 of this zoning title prior to the issuance of a building permit.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 12)

§ II-6.013 FPD - FLOODPLAIN DISTRICT.

(A) *Statutory authorization.* The state Legislature of the State of South Dakota has, in SDCL §§ 7-18-14 and 7-18-15, delegated the responsibility to of local governmental units to adopt regulations designed to promote the public health, safety, and welfare of its citizenry, by minimizing flood losses. Therefore, the

Board of County Commissioners of Lawrence County, South Dakota does ordain as follows: “Lawrence County of South Dakota elects to comply with the requirements of the National Flood Insurance Act of 1968 (Pub. Law No. 90-488, as amended). The National Flood Insurance Program (NFIP), is a voluntary program administered by the Federal Emergency Management Agency (FEMA), a component of the U.S. Department of Homeland Security, and Lawrence County’s community officials have elected to join the program, participate, and enforce this Flood Damage Prevention Ordinance and the requirements and regulations of the NFIP. NFIP, established in the aforesaid act, provides that areas of the Lawrence County having a special flood hazard be identified by the Federal Emergency Management Agency FEMA, and that floodplain management measures be applied in such flood hazard areas. Furthermore, Lawrence County may elect to administer the Flood Damage Prevention Ordinance to areas not identified as Special Flood Hazard Areas (SFHAs) by FEMA on the community’s effective Flood Insurance Rate Map (FIRM), if the community has documentation to support that there is an inherent risk of flooding in such areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.”

(B) *Findings of fact.*

(1) The flood hazard areas of the Lawrence County are subject to periodic inundation by floodwaters, which results in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare of the inhabitants of Lawrence County.

(2) These potential flood losses are caused created by:

(a) The cumulative effect of obstructions in floodplains areas of special flood hazards which that are known to cause increases in flood heights and velocities; and when inadequately anchored, damage uses in other areas.

(b) The occupancy of flood hazard areas by structures vulnerable to floods because they are Uses that are inadequately elevated, floodproofed, or otherwise unprotected from flood damages; and also contribute to the flood loss.

(c) Uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

(C) *Statement of purpose.* It is the purpose of this section ordinance to promote the public health, safety, and general welfare of the community and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize damage to public infrastructure, including but not limited to utilities, streets and bridges that are susceptible to flooding;

(3) Minimize prolonged business interruptions caused by flooding;

(4) Minimize public expenditures on of public money for costly flood control projects;

(5) Minimize the need for rescue and relief efforts associated with flooding and are generally undertaken at the expense of the general public;

(6) Protect and safeguard the welfare and safety of first responders should an emergency response is needed;

(5) Minimize damage to public facilities and utilities such as: water and gas mains; electric, telephone, and sewer lines; streets; and bridges located in floodplains;

(7) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(8) Promote Ensure that potential buyers are notified if properties that property is are in a flood area.

(D) *Methods or reducing flood losses.* In order To accomplish the its purposes outlined in, this section applies uses the following methods:

(1) Restricts or prohibit land uses that are dangerous to health, safety, or property in times of flooding, or cause excessive increases in flood heights or velocities;

- (2) Require that **land** uses vulnerable to floods, including facilities **that** ~~which~~ serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Controls filling, grading, dredging, and other developments which may increase flood damage; and
- (5) Prevents or regulates the construction of flood barriers **that** ~~which~~ will unnaturally divert floodwaters or ~~which~~ may increase flood hazards to other lands.

(E) *General provisions.*

- (1) *Lands to which this section applies.* The section shall apply to all areas of special flood hazard **identified by FEMA** within the jurisdiction of the county.
- (2) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Lawrence County", dated April 17, 2012, with accompanying Flood Insurance Rate Maps (FIRM), ~~dated April 17, 2012,~~ and any revisions thereto are hereby **automatically** adopted by reference and declared to be a part of this section.
- (3) *Establishment of development permit.* A **floodplain** development permit shall be required to ensure conformance with the provisions of this section.
- (4) *Compliance.* No structures or **developments including buildings, recreational vehicles, or manufactured homes** or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this section and other applicable regulations. Nothing herein shall prevent the Lawrence County Commissioners from taking such lawful action as is necessary to prevent or remedy any violations.
- (5) *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (6) *Interpretation.* In the interpretation and application of this section, all provisions shall be:
 - (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (7) *Warning and disclaimer or liability.*
 - (a) The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes.
 - (b) This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.
- (8) *Severability.* If any section, provision, or portion of this section is adjudged unconstitutional or invalid by a court, the remainder of this section shall not be affected.

(9) Stop Work Order.

- (a) **Authority.** Whenever the floodplain administrator or other community official discovers any work or activity regulated by this section being performed in a manner contrary to the provision of this ordinance, the floodplain administrator is authorized to issue a stop work order.
- (b) **Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
- (c) **Unlawful continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or

unsafe condition, shall be subject to penalties as prescribed by local or state law including but not limited to the penalties outlined in this section.

(10) *Penalties for Non-Compliance.*

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the NFIP regulation, to qualify for the sale of federally subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. “These regulations must include effective enforcement provisions.” In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, “These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances, or codes.”

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than 30 days, or both, for each violation assessed daily, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Lawrence County from taking such other lawful action as is necessary to prevent or remedy any violation

(F) *Administration.*

(1) *Designation of the Floodplain Administrator.* The Lawrence County Planning and Zoning Director is hereby appointed the Floodplain Administrator to administer and implement the provisions of this section and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

(2) *Duties and responsibilities of the Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (a) Uphold goals of the community and the NFIP to reduce risk when possible and increase the community’s resistance to future disasters.
- (b) Maintain and hold open for public inspection all records pertaining to the provisions of this section, including the actual elevation of the lowest floor (including basement or crawlspace) of all new or substantially improved structures and any floodproofing certificates, including the data supporting such certificates.
- (c) Maintain and hold open for public inspection maps that identify and locate the boundaries of the Special Flood Hazard Areas to which this section applies, including, but not limited to, the FIRM.
- (d) Review development proposals permit application to determine whether proposed building site, including sites designed for the placement of manufactured homes, will be reasonably safe from flooding;
- (e) Review, approve, or deny all applications for development permits required by adoption of this section;
- (f) ~~Ensure Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required;~~
- (g) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

- (h) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the State Office of Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (i) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation;
- (j) When base flood elevation (BFE) data has not been provided by FEMA, ~~in accordance,~~ the Floodplain Administrator shall obtain, review, and reasonably utilize any BFE data and floodway data available from a federal, state, or other source, **including data provided by the applicant**, in order to administer the provisions of this section;
- (k) When a regulatory floodway has not been designated, ~~the Floodplain Administrator must require that~~ no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
- (l) Under the provisions of 44 C.F.R. Chapter 1, § 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones AE on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional letter of map revision).
- (m) If the project is determined or reasonably believed to cause an adverse effect on the BFE's, boundaries of the floodplain or any insurable structures, technical justification for the proposed development shall be submitted and the community may require a CLOMR or LOMR to be submitted prior to permit approval or as a requirement of the permit.**

(3) Requirements to Submit New Technical Data

- (a) The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant had obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.**
- (b) The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.**
- (c) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.**

(4) Permit procedures.

Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to:

- (a) plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing, and proposed structures, including the placement of manufactured homes;

- (b) ~~and the~~ Location of the foregoing in relation to areas of special flood hazard. ~~Additionally, the following information is required;~~
- (c) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- (d) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- (e) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure (if applicable) shall meet the floodproofing criteria of this ordinance and the NFIP regulations ~~division (C)(2) below;~~
- (f) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development, if applicable; ~~and~~
- (g) At the community's discretion, the community may charge a fee for issuance of floodplain development permits; and
- (h) Copies of all floodplain development permits and the associated documents shall become property of the community and a permanent record. ~~Maintain a record of all such information.~~

Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this section and the following relevant factors:

- (a) The danger to life and property due to flooding or erosion damage;
- (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (c) The danger that materials may be swept onto other lands to the injury of others;
- (d) The compatibility of the proposed use with existing and anticipated development;
- (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
- (g) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- (j) The relationship of the proposed use to the Comprehensive Plan for that area.

(5) Use of Elevation Certificates

Lawrence County requires that the following Elevations Certificates be completed for any new residential or non-residential building construction:

- (a) Proposed Conditions: A proposed conditions Elevation Certificate is required to be completed by a professional and licensed engineer, surveyor, or architect as part of the Floodplain Permit package.
- (b) Building Under Construction: a building under construction Elevation Certificate is required to be completed by a professional and licensed engineer, surveyor, or architect at _____ (timing determined by community but suggested after foundation has been poured).
- (c) Finished Construction: a finished construction Elevation Certificate is required to be completed by a professional and licensed engineer, surveyor, or architect once the structure is completed, utilities are installed, and grading and landscaping has been completed

(6) *Variance procedures.* The County Commission acting as the Board of Adjustment, as established by state law, as established by the community shall hear and render judgment on requests for variances from the

requirements of this section **after a floodplain development permit has been denied.**

- (a) Any person or persons aggrieved by the decision of the **Board of Adjustment Appeal Board** may appeal such decision in the courts of competent jurisdiction.
- (b) **The Board of Adjustment, as established by the community, shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement of administration of this ordinance.**
- (c) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
- (d) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots, with existing structures constructed below the base flood level, providing the relevant factors in this **ordinance** ~~division (F)(3)~~ above have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (e) Upon consideration of the factors noted above and the intent of this section, the **Board of Adjustment Appeal Board** may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this section.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. **The term "substantial improvement" does not include any alteration of a structure or facility listed on the National Register of Historical Places or a State Inventory of Historical Places.**

Prerequisites for granting variances:

- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; variances shall only be issued upon:
 - 1. Showing a good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, ~~or~~ conflict with existing local laws or ordinances, **considers the need of ingress and egress during times of flood, and does not jeopardize first responders' health and welfare.**
- (b) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (c) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - 1. The criteria outlined **in this section** ~~(F)(4)~~ above are met; and
 - 2. The structure or other development is protected by methods that minimize flood

damages during the base flood and create no additional threats to public safety.

(7) *Watercourse Alterations*

- (a) No alteration to a channel, river, stream, drainage way, or other watercourse shall diminish the flood-carrying capacity of that watercourse. The altered or relocated watercourse shall have the same or greater capacity as the original watercourse.
- (b) All proposals for a watercourse alteration require submittal of a floodplain development permit. The applicant shall submit a set of plans and calculations prepared by a registered professional engineer of the proposed alteration and its effect on flows. An applicant shall provide the following information. Additional information may be submit and requested:
 - (1) Topographic map of the project area.
 - (2) A comparison of the existing and proposed channel capacity, including engineering calculations prepared by a registered professional engineer.
 - (3) A description of the proposed alteration extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - (4) Land use of adjacent properties.
 - (5) Description of any obstructions.
 - (6) Dimensions, specifications, and locations of any structures (bridges, culverts, water crossing, dams, dikes, levees, detention basins, etcetera)
 - (7) Photos of the area.
- (c) Prior to approval of the floodplain development permit, the applicant shall:
 - (1) Submit an application and obtain a CLOMR from FEMA.
 - (2) Notify adjacent communities, property owners and the and the State Coordinating Agency, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Floodplain Administrator and to FEMA.
 - (3) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(G) *Provisions for flood hazard reduction.*

- (1) *General standards.* In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements.
 - (a) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
 - (d) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.
 - (g) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (2) *Specific standards.* In all areas of special flood hazards where base flood elevation data has been provided, the following provisions are required.
 - (a) *Residential construction.* New construction and substantial improvement of any residential

structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this section are satisfied.

(b) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level of the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this division (G)(2)(b). A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(c) Nonresidential Construction Wet Floodproofing

New construction and substantial improvements of any commercial, industrial, or other non-residential structure including but not limited to detached garages, agricultural buildings, and storage buildings may be allowed to be wet floodproof provided that:

1. The structure is strictly a nonresidential structure used for building access, parking or storage only.
2. The structure is an accessory or appurtenant structure of low value.
3. Designed to allow for the automatic entry and exit of flood waters through the use of openings.
4. Be constructed of flood resistant materials.
5. Be properly anchored to resist flotation, collapse, and lateral movement;
6. Mechanical and utility equipment must be elevated or floodproofed to or above the BFE.
7. Must comply with the floodway encroachment provisions of the NFIP and this ordinance.
8. Designed and built to adhere to FEMA Technical Bulletins 1, 2, and 7.

A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator. If the use or occupancy of the building changes in the future to residential, then the wet floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction of this ordinance.

(d) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are ~~to be used~~ ~~usable~~ solely for parking of vehicles, building access, or storage in an area other than a basement and ~~which~~ are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
2. The bottom of all openings shall be no higher than one foot above grade; and
3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

The development and construction of the structure must conform with the provision in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2. Certification and documentation from a professional, licensed engineer or architect is required if the structure's lowest floor is built below the BFE.

(e) Crawlspace.

New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:

The structure must be affixed to a permanent foundation, designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.

- (A) The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than 1 foot above the LAG.
- (B) The crawlspace enclosure must have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of 1 square inch of flood opening is required per 1 square foot of the enclosed area subject to flooding.
- (C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, piers, or other materials that extend below the BFE. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (D) Any building utility systems within the crawlspace must be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- (E) The interior grade of a crawlspace below the BFE must not be more than 2 feet below the LAG.
- (F) The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor cannot exceed 4 feet at any point.
- (G) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.
- (H) Buildings with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the LAG.

(f) Manufactured homes.

1. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

2. Require that manufactured homes that are placed or substantially improved within Zone AE on the community's FIRM on sites: outside of a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

3. All AE Zones require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at or above the base flood elevation; or the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

(g) *Recreational vehicles.* Require that recreational vehicles placed on sites within Zone AE on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days **unless the community has elected a higher standard option and be fully licensed and ready for highway use;**
 - a. **A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.**

2. Or Meet the permit requirements of division (F)(3) above, and the elevation and anchoring requirements for manufactured homes of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(3) *Standards for subdivision proposals.*

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this section.

(b) **All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.**

(c) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of this section.

(d) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is less.

(e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

(4) *Floodways.* Floodways located within areas of special flood hazard ~~established in division (E)(2) above,~~ are extremely hazardous areas due to the velocity of floodwaters ~~which~~ **that** carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

(a) Designate a regulatory floodway which will not increase the base flood level more than one foot;

(b) Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any increase greater than 0.00 feet, unless higher standard option selected,** in flood levels within the community during the occurrence of the base flood discharge;

(c) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division (G); and

(d) Under the provisions of 44 C.F.R. Chapter 1, § 65.12, of the National Flood Insurance regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

~~(5) *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations. Violation of the provisions of this section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class II misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained~~

~~shall prevent the county from taking such other lawful action as is necessary to prevent or remedy any violation.~~

(6) *Certification.* It is hereby found and declared by the county that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this section become effective immediately.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 13)

§ II-6.014 WSS - WHITEWOOD SUPERFUND SITE DISTRICT.

(A) General.

(1) The intent of the WSS - Whitewood Superfund Site District is to minimize risk to individuals from arsenic at the site, with the assistance of the county, Homestake Mining Company (HMC), Environmental Protection Agency (EPA), and the State Department of Environment and Natural Resources (DENR).

(2) The information provided within this section and within the *Whitewood Creek Tailings Area Building Permit Handbook* is offered as part of the remediation requirements for the Whitewood Creek Superfund Site, which is located in the county. This section is intended to remind site residents about the EPA site remedy, and to identify precautions that should be taken by a site resident to continue to protect their health and safety.

(3) This section provides county staff and landowners in the Whitewood Creek Tailings area with guidance on how to proceed with residential construction. It also details those activities prohibited or restricted by land use ordinances applicable to the area.

(4) The Whitewood Superfund Site only applies to the area as described in Figure 1, as shown below.

(B) Site remedy.

(1) Two soil types were identified by the EPA as potentially presenting risks. Tailings deposits were tailings that were actively deposited in the old stream bed and floodplain. Tailings impacted soil areas are soils that were impacted by wind-blown tailings from the stream bed and floodplain.

(2) EPA chose a twofold remedy for the Whitewood Creek Superfund Site:

(a) Existing residential yards containing tailings deposits or tailings impacted soils were cleaned up in 1991 and 1992 by removing these materials or covering them with clean soil; and

(b) County ordinances were adopted to minimize exposure to tailings deposits and tailings impacted soils in future development. In addition, an existing state rule prohibiting shallow well construction in the Whitewood Creek floodplain has been continued.

(C) Limitations and restrictions.

(1) Residential and commercial (non-agriculture) development on tailings deposits is prohibited.

(2) Residential development is only allowed in tailings impacted soil areas once the owner has remediated the soils, and only in areas that have soil arsenic levels below 100 parts per million based on an appropriate sampling program, as outlined on Page 3 of the *Whitewood Creek Tailings Area Building Permit Handbook - Building Restricted On Tailings Impacted Soils*.

(3) Excavation of tailings materials and use of tailings materials outside of the tailings deposits is prohibited. (Mining of the tailings is allowed subject to the regulations of the individual county, the state, and applicable federal requirements.)

(4) Importation of tailings deposits or tailings impacted soils to residential yards is prohibited (e.g., these materials cannot be used for driveways or as fill in yards or gardens).

(5) The construction of shallow wells within the tailings deposits is prohibited by state law, ARSD 74:02:04:26.

(6) Please refer to the County Zoning Map in the County Planning and Zoning Department for a general outline of the area. This map identifies tailings deposits and tailings impacted soils.

(D) *Site residents' roles.* Residents have an important role in implementing the remedy and minimizing risk. Site residents are asked to do the following:

- (1) Notify Homestake Mining Company if floodwaters reach residential yards within the site;
- (2) Notify potential property owners about the Whitewood Creek Superfund Site and provide them with this section. The assistance of site residents is necessary to educate potential property owners, as warning signs and deed restrictions were not included in the remedy in response to public comment;
- (3) Contact the County Planning and Zoning Department prior to any construction on your property; and
- (4) Notify Homestake Mining Company if you are aware of any planned building activities within the Whitewood Creek Superfund Site.

(E) *Site documents and contacts.*

(1) Documents regarding the former Whitewood Creek Superfund Site, including the record of decision and consent decree, are available for public review at the County Register of Deed's office, 90 Sherman Street, Deadwood, SD 57732. The phone number is (605) 578-3930.

(2) For detailed information on the requirements for construction in the Whitewood Creek Superfund Site District, you will need to refer to the *Whitewood Creek Tailings Area Building Permit Handbook* on file in the County Planning and Zoning Department. This handbook is available in order to help guide the landowner to meet all of the requirements of the WSS prior to the county issuing a building permit. All of the information provided will be reviewed by the County Planning Department, as well as Homestake Mining Company. Be advised, the building permit process in this designated zoning district will take longer than the designated five days as stated on building permit applications.

(Ord. 14-01, passed 6-6-2014, Ch. 6, Art. 14)

FIGURE 1. WHITEWOOD CREEK SUPERFUND SITE

FIGURE 1



