

ARTICLE 2

DEFINITIONS

Chapter 2.01 GENERAL TERMS

For the purpose of this ordinance, certain terms and words are defined.

The present tense includes the future tense;

The singular number includes the plural;

The plural number includes the singular;

Lot includes the words "plot" or "parcel";

May is permissive;

Shall is mandatory, and;

Person, in addition to an individual, includes the following terms: "firm", "association", "organization", "partnership", "trust", "company" or "corporation".

Chapter 2.02 WORDS AND PHRASES

Accessory. As applied to use or structure, means customarily subordinate or incidental to, and located on the same lot with such use or structure,

Amusement Areas and Facilities. Any buildings, areas, plots or parcels of land which are set aside for the purpose of amusement of paying clients. Such areas and facilities include those located indoors and outdoors. Examples of amusement areas and facilities include: Miniature golf courses, amusement parks, arcades and theaters.

Boarding House. A building other than a motel, hotel or restaurant, where lodging and meals are provided for 3 or more persons, but not exceeding 10 persons, and not open to the public or transients.

Building. Any structure, including a roof supported by posts or columns, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind. The word "building" shall include the word "structure".

Building Height. The vertical distance from the established average finished grade at the building line to the highest point of the building.

Buildable Area. The portion of a lot remaining after all required yards have been provided.

Conditional Use Permit. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in the zoning district regulations.

Day Care Center. Any operation which provides child care services. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

District. A section of the City for which regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.

Dwelling, Farm. Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

Dwelling, Manufactured Home. SDCL 34-34A-1.1 A manufactured home is a structure that meets the following requirements:

- (1) It is transportable in 1 or more sections; and
- (2) Its body is 8 or more feet wide or 40 or more feet long in the traveling mode, or it occupies 320 or more square feet when erected on a site; and
- (3) It is built on a permanent chassis; and
- (4) It is designed to be used as a dwelling with or without a permanent foundation when it is connected to the required utilities.

Dwelling, Modular Home. A modular home is a structure that meets the following requirements:

- (1) It is transported to a site on a trailer, in 1 or more sections; and
- (2) It is designed for assembly on site and attachment to a permanent foundation; and
- (3) It does not have an axle, hitch or other equipment designed to make it transportable without the use of a trailer.

Dwelling, Multiple-Family. A residential building containing three or more household units including apartments, condominiums, and town houses.

Dwelling, Single-Family. A detached residential building, other than a manufactured home but including modular homes, containing 1 household unit.

Dwelling, Two-Family. A detached residential building containing two household units.

Dwelling Unit. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, containing independent cooking and sleeping facilities, and physically separated from any other rooms or dwelling units which may be in the same structure.

Family. One or more persons occupying a single dwelling unit, provided that no such group of persons includes more than 5 persons who are not related by blood or marriage. Domestic servants employed on the premises shall not be counted as a separate family or families.

Farm. A bonafide business for the production of agricultural products, but specifically excluding greenhouses, horticultural nurseries, kennels, and the incidental use of horses, dogs or other animals, and similar operations.

Feedlot, Commercial. A business establishment at which occurs the feeding of livestock.

Filling Station. Buildings and premises where gasoline, oil, grease, batteries, tires and other automobile accessories may be supplied, dispensed and serviced at retail, but where the following activities are not carried out as a normal part of doing business:

- 1) Major mechanical work, involving removal of the head or crankcase;
- 2) Auto body work, including straightening of auto body parts;
- 3) Painting or welding of any automobile parts;
- 4) Storage of automobiles not in operating condition, and;
- 5) Any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normally found at places which sell gasoline at retail.

Floodplain. Land that may be submerged by flood waters.

Height of Structures. The vertical distance from the base of a structure to the highest point of a structure.

Home Occupation. An occupation or profession conducted in a dwelling unit, provided that:

- a) No person other than members of the family residing on the premises shall be engaged in such occupation;
- b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 25% of the living area of the dwelling unit shall be used in the conduct of the home occupation;
- c) There shall be no commodity sold in connection with such home occupation, except that which is prepared in the dwelling or except that which is furnished in connection with the service rendered;
- d) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than 1 non-illuminated sign which may be either one-sided or two-sided. Such sign shall not exceed 32 square feet in area in the Agricultural District or 4 square feet in area in any Residential district.
- e) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.
- f) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.
- g) Notwithstanding the preceding standards, any operation which provides care for more than 12 children in a 24 hour period, shall not be considered a home occupation.

Hotel or Motel. A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are 4 or more guest rooms, and which is open to the public and transients.

Household Unit. One room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure.

Junk Yard. Any area where waste, junk, discarded or salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or wrecking of automobiles or other vehicles or machinery.

Lagoon. A shallow, man-made pond for the holding or processing of human or livestock sewage.

Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space shall not be included as a part of off-street parking space in the computation of required off-street parking space.

Lot. A tract, plot, outlot, or portion of a subdivision or other parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required. See FIGURE 2-1 below:

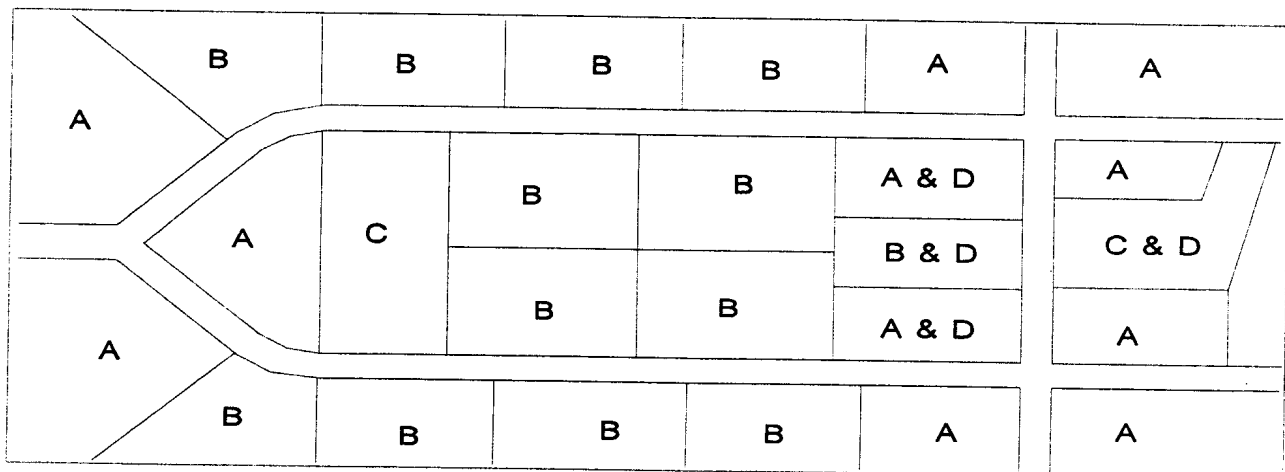


FIGURE 2-1

A = Corner Lot. A lot abutting two or more streets at their intersection.

B = Interior Lot. A lot with frontage on only one street.

C = Through Lot. A lot having frontage on two non intersecting streets, as distinguished from a corner lot.

D = Reverse Frontage Lot. A lot on which the frontage is at approximate right angles to the general pattern of the area.

Lot Depth. The horizontal distance between the midpoint of the front and rear lot lines.

Lot Frontage. The portion of a lot nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

Lot Line. The boundary of a parcel of land, as legally recorded.

Lot of Record. A lot or parcel of land, the deed of which has been recorded in the office of the _____ County Register of Deeds prior to the adoption of this ordinance.

Lot Width. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

Manufactured Home Park. Premises where two or more manufactured homes are parked for living or sleeping purposes, or where spaces or lots are set aside or offered for sale or rent for use by manufactured homes for living or sleeping purposes, including any land, building, structure or facility used by occupants of manufactured homes on such premises. In cases in which a manufactured home park is a nonconforming use at the effective date of these regulations, and none of the spaces or lots are occupied within one year of the effective date of these regulations, such premises shall no longer be considered a manufactured home park.

Nonconforming Use. Any building or land lawfully occupied by a use at the time of passage of this ordinance or amendment which does not conform after the passage of this ordinance or amendment with the use regulation of the district in which it is situated.

Outdoor Advertising Business. Provision of outdoor displays or display space on a lease or rental basis only.

Parking Space, Off-Street. An area, enclosed or unenclosed, sufficient in size to store 1 automobile, not less than 10 feet wide and 20 feet long, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Permanent Foundation. A continuous foundation around the perimeter of a structure, which, at bottom, extends no less than 42 inches below the adjacent natural soil grade.

Personal Services. Examples of Personal Services include hair grooming, skin care, massage therapy, tattooing or tanning beds.

Parks and Recreation Areas. Any buildings, areas, plots or parcels of land which are set aside for the purpose of providing for the enjoyment and preservation of the outdoors and/or historic sites. Parks and Recreation Areas include, but are not limited to, swimming pools, hiking & horseback trails, wilderness areas, boat landings, playing fields, primitive campgrounds, campgrounds with modern facilities, and fairgrounds.

Private Garage. A building used for the storage of vehicles owned and used by the owner or legal tenant of the lot on which it is erected.

Set Back. The minimum distance from a building or any projection thereof to the adjacent lot line.

Signs. Any device, designed to inform or attract the attention of persons not on the premises on which such sign is located, not including the following:

- a) Signs not exceeding 1.5 square feet in area;
- b) Signs bearing only property numbers, post box numbers, names of residents of the premises or other identification of the premises not having commercial connotations;

- c) Flags and insignia of any government, except when displayed in connection with commercial promotion;
- d) Legal notices, and identification, informational or directional signs erected or required by government bodies;
- e) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights, and;
- f) Signs directing or regulating traffic and parking on public or private property, but bearing no advertising matter.

Signs, Method of Determining Number. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without an organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Signs, Method of Determining Surface Area. For the purposes of determining the surface area of a sign, the entire area within a regular geometric form or combination of regular geometric forms comprising all elements of the matter displayed, but not including frames or structural members not bearing advertising, shall be considered the surface area of a sign.

Sign, Off-site. A sign other than an on-site sign and including an outdoor advertising sign, or devise and billboard not relating in subject matter to the use or activity of the premises on which such sign is located.

Sign, On-site. A sign relating in subject matter to the premises on which such sign is located, or to products, accommodations, services, or activities on the premises. On-Site signs do not include signs erected by outdoor advertising businesses in the conduct of advertising business.

Solid Waste Disposal Facility. Any facility which accepts, for final disposal, any type of garbage, refuse or solid waste.

Solid Waste Transfer, Processing or Recycling Facility. Any facility which accepts, for processing, re-use, resource recovery or transfer to a Solid Waste Disposal Facility, any type of garbage, refuse or solid waste.

Street Line. The line delineating the edge of the right-of-way of a street, road or highway.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Examples of structures include antennas, buildings, dugouts, fences, lagoons, manufactured homes, signs, swimming pools and walls.

Subdivision. Any land, vacant or improved, which has been divided or is proposed for division into two or more lots, tracts or parcels for the purpose of sale or development, whether immediate or future.

Variance. A variance is a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result or the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Yard. An open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided in this ordinance.

a) Yard, Front. A yard along the front of any building and along a street right-of-way.

b) Yard, Side. A yard along the side of any building.

c) Yard, Rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there shall be no rear yards, but only front and side yards.