

ZONING ORDINANCE

FOR



September 16, 2018

PREPARED BY
THE BRANT LAKE PLANNING AND ZONING COMMISSION

WITH ASSISTANCE FROM
THE FIRST DISTRICT ASSOCIATION OF LOCAL GOVERNMENTS

CITY OF BRANT LAKE

ZONING ORDINANCE

Notice of Public Hearing Published: July 3, 2018

Public Hearing by Planning Commission and City Council: July 17, 2017

Planning Commission Recommendation: July 17, 2018

First Reading by City Council: July 17, 2018

Second Reading and Adoption by City Council: August 14, 2018

Notice of Adoption Published: August 20, 2018 and August 27, 2018

Effective Date: September 16, 2018

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**ARTICLE I
GENERAL PROVISIONS**

CHAPTER 1.01 TITLE AND APPLICATION.

Section 1.01.01 Title.

This ordinance shall be known and referred to as “The Zoning Ordinance of the City of Brant Lake, South Dakota.”

Section 1.01.02 Jurisdiction.

Pursuant to SDCL 11-4 and 11-6, 1967, as amended, the provisions of this Ordinance shall apply within the incorporated areas of the City of Brant Lake, South Dakota, as established on the map entitled “The Official Zoning Map of the City of Brant Lake, South Dakota.”

Section 1.01.03 Purpose.

The Zoning Ordinance is enacted for the purpose set forth and provided for in South Dakota Compiled Laws and Amendments, Chapters 11-4 and 11-6, that is, among other things to promote health, safety, morals, and general welfare of the community.

This ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the City and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To assist in the implementation of the City of Brant Lake’s Comprehensive Land Use Plan which in its entirety represents the foundation upon which this Ordinance is based.
2. To foster a harmonious, convenient, workable relationship among land uses.
3. To promote the stability of existing land uses that conform with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions.
4. To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole.
5. To prevent excessive population densities and overcrowding of the land with structures.
6. To foster the provision of adequate off-street parking and off-street truck loading facilities
7. To facilitate the appropriate location of community facilities and institutions.
8. To protect and enhance real estate values.
9. To safeguard and enhance the appearance of the community, including natural amenities.

10. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the comprehensive land use plan.
11. To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes.
12. To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of building, structures, and land.

CHAPTER 1.02 ORDINANCE PROVISIONS

Section 1.02.01 Provisions of Ordinance Declared to Be Minimum Requirements.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants; the most restrictive or that imposing the higher standards shall govern.

Section 1.02.02 Violations/Penalties for Violation.

1. Violations of the ordinance shall be treated in the manner specified below.
 - a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this zoning ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.
 - i. Upon finding such violation, the Zoning Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, in addition to the prescribed fee, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the prescribed fee for said permit (building, conditional use, variance, rezoning) plus the cost of the postage for mailing the aforementioned notice.
 - ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the prescribed fee for the associated Building/Use Permit, conditional use permit, variance, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.
 - iii. Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.

- b. It is declared unlawful for any the owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the City Council pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the City.

- c. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or structure or land is used in violation of this ordinance or other regulation, the Zoning Official, or the City of Brant Lake, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.

The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

- d. Any taxpayer of the City may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.03 Separability Clause.

Should any article, chapter, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

Section 1.02.04 Repeal of Conflicting Ordinances.

This ordinance is intended to replace and repeal Ordinance Number 2017-01, adopted March 1, 2017, and all amendments thereto. All ordinances or part of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are repealed entirely.

Section 1.02.05 Effective Date.

This Ordinance shall take effect and be in force from and after its passage and publication according to South Dakota Codified law.

CHAPTER 1.03 OFFICIAL ZONING MAP

Section 1.03.01 Official Zoning Map.

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the City Council President attested by the City Finance Officer under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 2018-01 of the City of Brant Lake, State of South Dakota," together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the City Finance Officer.

If, in accordance with the provisions of this Ordinance and Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the City Finance Officer or in his/her absence a person designated by the City Council. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 1.02, Section 1.02.02.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the City Offices, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Section 1.03.02 Rules Where Map Designation Uncertain.

Where uncertainty exists with respect to the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole area in the unincorporated portions of the City bounded by the district boundary lines.
2. In cases where the boundary line is given a position within a street, road, or non-navigable stream, it shall be deemed to be in the center of the street, road, or stream, and if the actual location of such street, road, or stream varies slightly from the location as shown on the district map, then the actual location shall control.
3. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

4. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from the railroad shall be measured from the center of the designated mainline track.
5. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and where the districts designated on the Official Zoning Map accompanying and made a part of this Ordinance are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map or by resolution.
6. In un-subdivided property, unless otherwise indicated, the district boundary line on the Official Zoning Map accompanying and made a part of this Ordinance shall be determined by the use of the scale contained on such map.

Section 1.03.03 Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Brant Lake shall be automatically placed into the "A" Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations.

Section 1.03.04 Changes and/or Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, or, the City Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the City Council President attested by the City Finance Officer, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Brant Lake, State of South Dakota."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

In the event that the Official Zoning Map becomes difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations

**ARTICLE II
DISTRICT REGULATIONS**

CHAPTER 2.01 APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01 Applicability of Regulations.

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

Section 2.01.02 Compliance; Generally.

No building, or any part thereof shall hereafter be used or occupied, and no building or any part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose permitted in the Zoning District in which said building or premise is located, except as hereinafter provided.

Section 2.01.03 Structures & Lots; Construction or Alteration; Limitations of.

1. No building or other structure shall hereafter be erected or altered:
 - a. To exceed the height or bulk;
 - b. To accommodate or house a greater number of families;
 - c. To occupy a greater percentage of lot area;
 - d. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.
2. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

CHAPTER 2.02 NON-CONFORMING USES

Section 2.02.01. Purpose and Intent. The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue. Further, it is intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

Section 2.02.02. Continuation of Nonconforming Uses. Subject to the provisions of this article, the lawful use of a premise existing immediately prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof.

Section 2.02.03. Use Becoming Nonconforming by Change in Law or Boundaries. Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions thereof.

Section 2.02.04. Extension or Enlargement A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located.

Section 2.02.05. Restoration After Damage. When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty (60) percent of its fair market cash value, it shall not be restored except in conformity with the provisions of the district in which the building is located. Such repair or reconstruction of such building shall be begun within nine (9) months after such casualty and completed within a reasonable time thereafter. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.

Section 2.02.06. Repairs and Maintenance. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the nonconformity of the structure shall not be increased.

Section 2.02.07. Unsafe Nonconforming Use. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 2.02.08. Discontinuance of Nonconforming Use. No nonconforming use, building, structure or premises, if once changed to conform to the requirements of this ordinance for the district in which it is located, shall ever be changed back so as to be nonconforming. In the event that a nonconforming use is discontinued for more than one (1) year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located.

Section 2.02.09. Effect on Use Which is Illegal Under Prior Law. Nothing in this Ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of zoning regulations in effect at the time of the effective date of this Ordinance.

Section 2.02.10. Powers of the Planning Commission/Board of Adjustment. Nothing contained in this Section shall be so construed as to abridge or curtail the powers of the City Planning Commission or Board of Adjustment as set forth elsewhere in this Ordinance.

Section 2.02.11. Continuation of Nonstandard Uses. Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

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

Section 2.02.12 Uses Under, Conditional Uses Provisions Not Non-Conforming Uses.

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district but shall without further action be considered a conforming use.

Section 2.02.13 Non-conforming Lots of Record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this Ordinance.

CHAPTER 2.03 DISTRICT REGULATIONS

Section 2.03.01 Generally.

The district regulations included in this Chapter may be qualified or supplemented by additional regulations appearing elsewhere in this Ordinance.

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses exist at the effective date of these regulations and qualify as nonconforming uses. Deviation from zoning district lot, yard, and related requirements, and deviation from these zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.02 of these regulations.

The Board of Adjustment may establish additional requirements and standards for uses and structures permitted by Conditional Use Permit as conditions to said Conditional Use Permit.

Section 2.03.02 Zoning Districts.

The following zone and use districts are hereby established for the purposes of administration and enforcement of this Ordinance.

1. **“A” Agricultural District**

The intent of the “A” Agricultural District is to protect agricultural land and uses from incompatible land uses and to prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.

2. **“C” Commercial District**

The purpose of the “C” Commercial District is to provide commercial areas oriented to the pedestrian shopper.

3. **“FP” Flood Plain Overlay District**

The intent of the “FP” Flood Plain Overlay District is to protect from encroachment watershed areas subject to flooding, backwater spreading, and floodwater or overflow of streams or rivers. The FP Overlay District imposes special regulations on the property that may fall within the other zoning districts without abrogating the requirements imposed by the underlying land use district regulations.

4. **“R1L” Single-Family Lake Front Residential District**

The purpose of the “R1” Single-Family Residential District is to provide locations for low-density site-built, single-family residential dwellings adjacent to Brant Lake. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible land uses. Other types of single family residential dwellings and compatible uses may be permitted based upon complying with site review and adjacent landowner concerns.

5. **R1” Single-Family Residential District**

The purpose of the “R1” Single-Family Residential District is to provide locations for low-density site-built, single-family residential dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible land uses. Other types of single-

family residential dwellings and compatible uses may be permitted based upon complying with site review and adjacent landowner concerns.

6. "R2" General Residential District

The purpose of the "R2" General Residential District is to provide a stable environment for the development of two-family and multiple-Family dwelling units free from incompatible land uses. Other types of residential dwellings may be permitted based upon complying with site review and adjacent landowner concerns.

6. "R3" General Residential District

The purpose of the "R3" General Residential District is to provide for oversized private and commercial storage facilities.

7. Purpose of Residential Districts, Generally

- a. To reserve appropriately located areas for single-family living at reasonable population densities consistent with sound standards of public health and safety with sanitary sewers.
- b. To insure adequate light, air, privacy and open space for each dwelling.
- c. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excess size in relation to the land around them.
- d. To protect residential properties from noise, elimination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influence.

CHAPTER 2.04 "A" - AGRICULTURAL DISTRICT

Section 2.04.01 Permitted Uses.

The following uses and structures shall be permitted in the "A" Agricultural District:

1. The raising of crops

Section 2.04.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "A" Agricultural District:

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district.
2. Roadside stands for sales of agricultural products grown or produced on the premises.

Section 2.04.03 Conditional Uses.

The following uses may be permitted, as a Conditional Use in the "A" Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Public buildings or facilities erected or established and operated by any governmental agency;
2. Telecommunication facilities;
3. Essential Public Services;
4. Nurseries and greenhouses.

Section 2.04.04 Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "A" Agricultural District.

Section 2.04.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

Table 2.04.05.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height
Permitted Use	43,560 square feet	150'	35'
Towers or Steeples			75'
Principal Building associated with a tower or steeple			45'
Conditional Uses	To be determined by the Board of Adjustment		

Table 2.04.05.2

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	Maximum Lot Coverage
Permitted Uses	75'	50'	30'	10%
Conditional Uses	To be determined by the Board of Adjustment			10%

CHAPTER 2.05 “R1L” SINGLE-FAMILY RESIDENTIAL LAKE FRONT DISTRICT

Section 2.05.01 Permitted Uses.

The following uses and structures shall be permitted in the “R1L” Single-Family Residential District:

1. Site-built single-family dwellings;
2. Single-family modular homes;
3. Public park and recreation areas.

Section 2.05.02 Permitted Accessory Uses.

The following accessory uses/structures shall be permitted in the “R1L” Single-Family Residential District:

1. Accessory uses and structures customarily incidental to permitted uses;
2. Boathouses and sheds located further than fifteen (15) feet from and at least four (4) feet above the high-water mark, or from a point as determined by the Board of Adjustment.

Section 2.05.03 Conditional Uses.

The following uses may be permitted as a conditional use in the “R1L” Single-Family Lake Front Residential by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Home occupations;
2. Essential public services;
3. Boat Houses adjacent to lake shore;
4. Sheds with dimension less than one hundred fifty (150) square feet adjacent to the lake shore

Section 2.05.04 Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R1L” Single-Family Lake Front Residential District”.

Section 2.05.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.05.05.1 and 2.05.05.2 and Figure 2.05.05.1.




Table 2.05.05.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residence	9,000 square feet	70'	35'*	30%
All other Permitted and Conditional Uses	To be determined by the Board of Adjustment			

*Maximum height for steeples and towers shall be seventy-five (75) feet. Height of structure to be measured from the side of the structure facing the street.

All lots shall front on and have ingress and egress by means of a public right-of-way.

Table 2.05.05.2

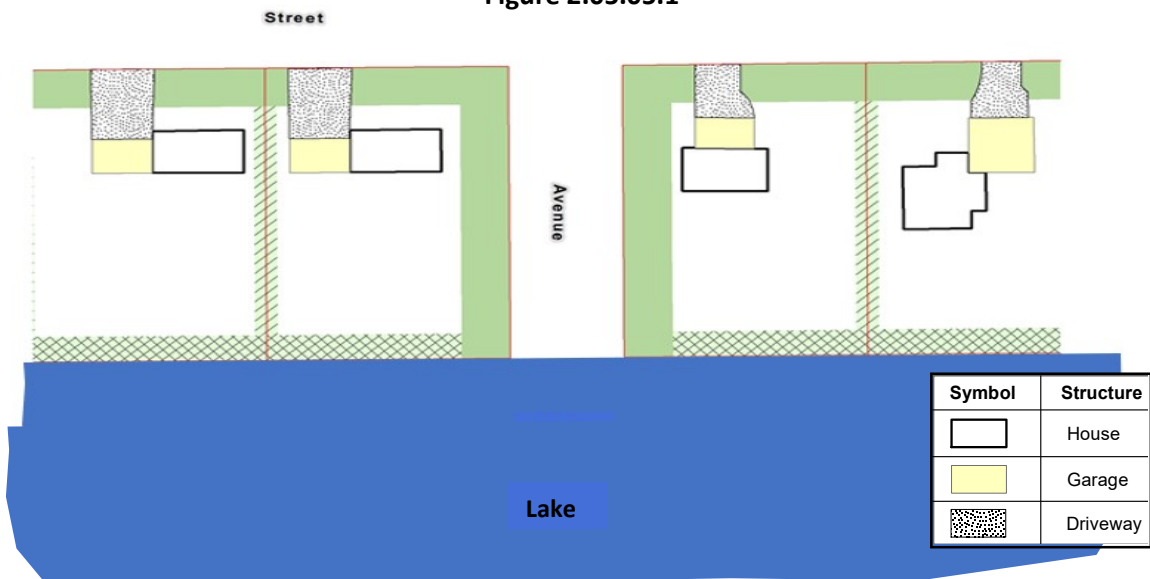
	Minimum Front Yard*	Minimum Rear Yard**#	Minimum Side Yard
SYMBOL			
Permitted Uses	30'	50'	10'
Conditional Uses	To be determined by the Board of Adjustment		

*30' from measured from property line or 45' edge of road, whichever is further.

** Accessory structures per Chapter 4.03 may be placed within the minimum rear yard setback subject to receiving an approval from adjoining landowners.

Minimum Rear Yard setback shall be the greater of 50' or the established sight line established by the average of the setbacks of the principal structure on adjoining lots. If there are no principal structures located on the adjacent lot(s) than the sight line will be established by the average of the setbacks of principal structures within 300' feet of the proposed structure.

Figure 2.05.05.1



CHAPTER 2.06 “R1” SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 2.06.01 Permitted Uses.

The following uses and structures shall be permitted in the “R1” Single-Family Residential District:

1. Site-built single-family dwellings;
2. Single-family modular homes;
3. Public park and recreation areas.

Section 2.06.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “R1” Single-Family Residential District:

1. Accessory uses and structures customarily incidental to permitted use.

Section 2.06.03 Conditional Uses.

The following uses may be permitted as a conditional use in the “R1” Single-Family Residential District by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Home occupations;
2. Public buildings or facilities established and operated by any governmental agency;
3. Essential public services

Section 2.06.04 Prohibited Uses.

1. All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R1” Single-Family Residential District”.

Section 2.06.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.06.05.1 and 2.06.05.2 and Figure 2.06.05.1.

Figure 2.06.05.1

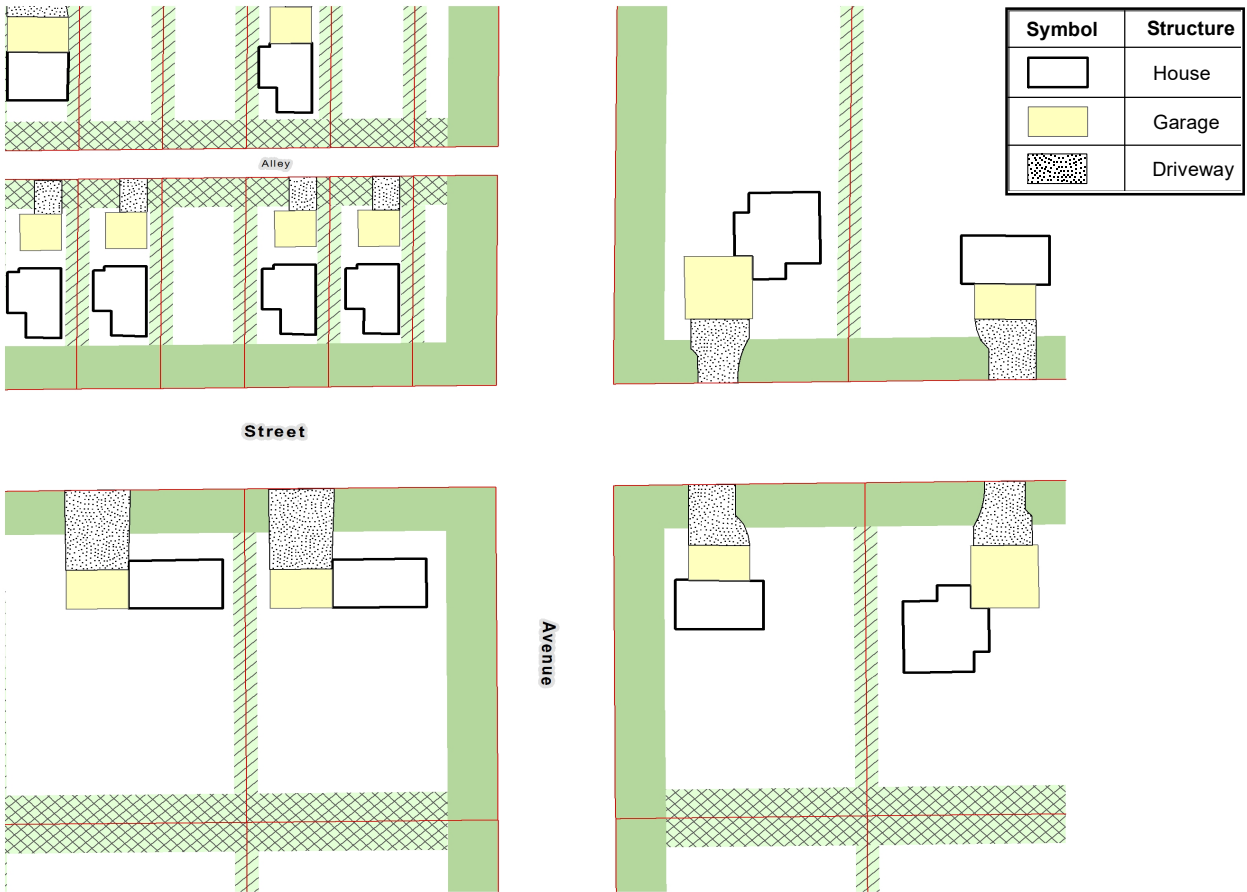


Table 2.06.05.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height*	Maximum Percent Lot Coverage
Single Family Residence	9,000 square feet	70'	35'	30%
Conditional Uses	To be determined by the Board of Adjustment			

*Maximum height for steeples and towers shall be seventy-five (75) feet. Height of structure to be measured from the side of the structure facing the street.

Table 2.06.05.2

	Minimum Front Yard* (Road Front)	Minimum Rear Yard	Minimum Side Yard
SYMBOL			
Permitted Uses	25'	25'	10'
Conditional Uses	To be determined by the Board of Adjustment		

*25' from measured from property line or 50' from edge of road, whichever is further
Accessory structures may be placed within fifteen (15) feet of an alley

CHAPTER 2.07 "R2" GENERAL RESIDENTIAL DISTRICT

Section 2.07.01 Permitted Uses.

The following uses and structures shall be permitted in the "R2" General Residential District:

1. Site-built single-family dwellings;
2. Single-family modular homes;
3. Public park and recreation areas.

Section 2.07.02 Permitted Accessory Uses.

1. Accessory uses and structures customarily incidental to permitted uses.

Section 2.07.03 Conditional Uses.

The following uses may be permitted as a conditional use in the "R2" General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Home occupations;
2. Public buildings or facilities established and operated by any governmental agency;
3. Essential public services;
4. Group home;
5. Bed and breakfast establishments;
4. Two-family dwellings;
5. Multiple-family dwellings;
6. Licensed commercial day care facilities;
7. Church

Section 2.07.04 Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "R2" General Residential District.

Section 2.07.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.07.05.1 and 2.07.05.2 and Figure 2.07.05.1.

Figure 2.07.05.1

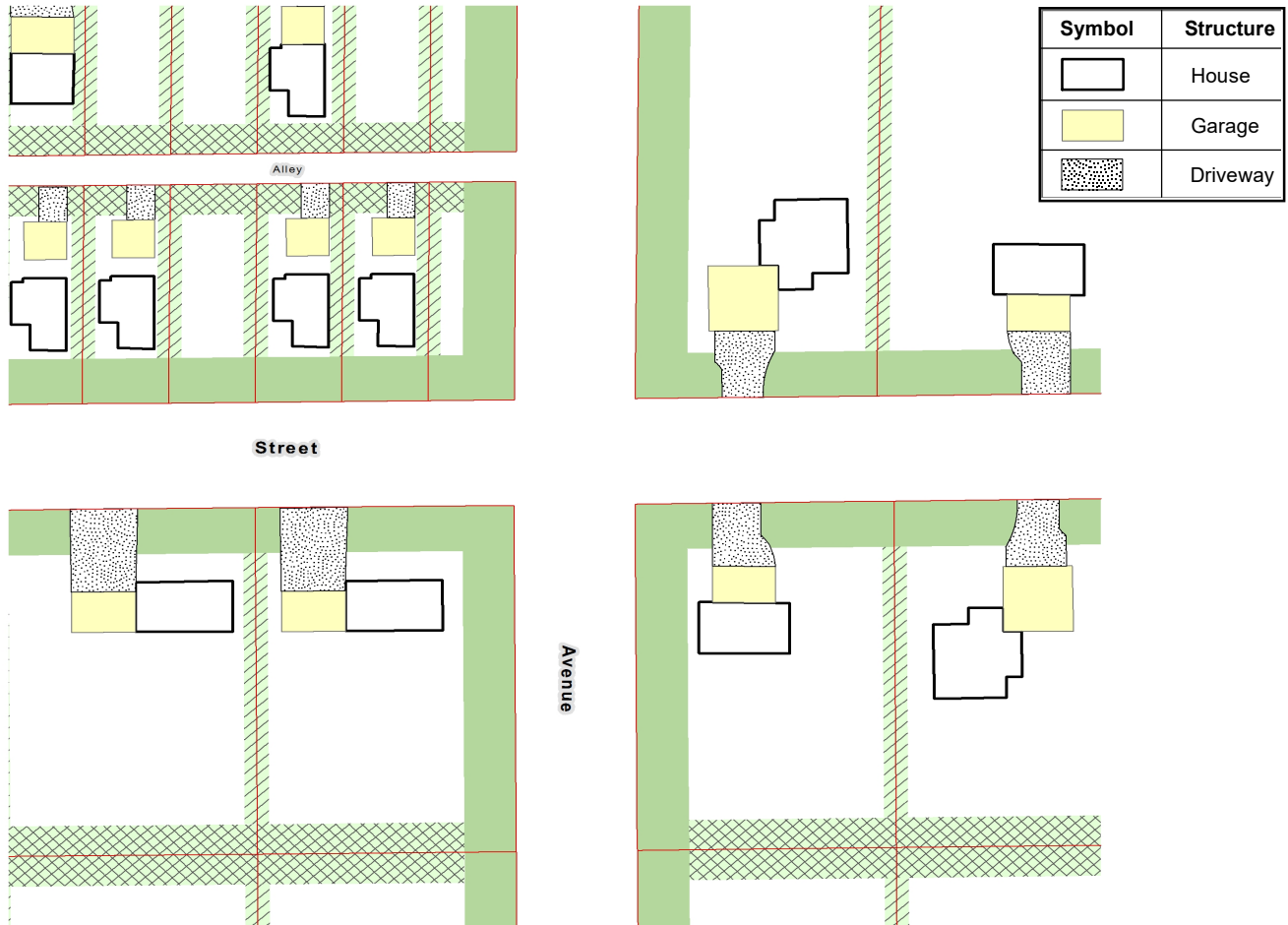


Table 2.07.06.1

SYMBOL	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	
			Party Wall Side	Non-Party Wall Side
Single Family Residential	25'	20'	0'	5'
Two Dwelling Units	20'	10'	0'	5'
Three or More Dwelling Units	20'	20'	0'	10'
Conditional Uses	To be determined by the Board of Adjustment			

*25' from measured from property line or 50' from edge of road, whichever is further

Accessory structures may be placed within fifteen (15) feet of an alley

Table 2.07.06.2

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	7,000 square feet	50'	35'	30%
Two Family Residence	6,000 per unit	140'	35'	30%
Multiple Family Three - Four Dwelling Units	6,000 Square feet for first unite plus 2,400 square feet per additional dwelling unit	140'	35'	40%
Multiple Family More than Four Dwelling Units	13,200 square feet for first four units plus 1,815 square feet per additional dwelling unit	140'	35'	40%
Churches, synagogues, chapels and other similar places of worship	87,120 square feet (2 acres)	200'	35'*	30%
Conditional Uses	To be determined by the Board of Adjustment			

**Maximum height for steeples and towers shall be seventy-five (75) feet*

CHAPTER 2.08 “R3” RESIDENTIAL ACCESSORY DISTRICT

Section 2.08.01 Permitted Uses.

The following uses and structures shall be permitted in the “R3” General Residential District:

1. Private storage facilities containing no more than five thousand (5,000) square feet and do not have sidewalls with a height greater than twelve (12) feet

Section 2.08.02 Permitted Accessory Uses.

1. Accessory uses and structures customarily incidental to permitted uses.

Section 2.08.03 Conditional Uses.

The following uses may be permitted as a conditional use in the “R3” General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Private and/or commercial storage facilities containing more than five thousand (5,000) square feet and/or have sidewalls with a height greater than twelve (12) feet. Private and commercial storage buildings will use building, siding and roofing materials of a character comparable to other residential structures within the “R1” Single-Family Residential District”.

Section 2.08.04 Prohibited Uses.

1. All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R3” Residential Accessory District.

Section 2.08.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.08.05.1 and 2.08.05.2 and Figure 2.08.05.1.

Table 2.08.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	7,000 square feet	50'	35'	30%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.08.06.1

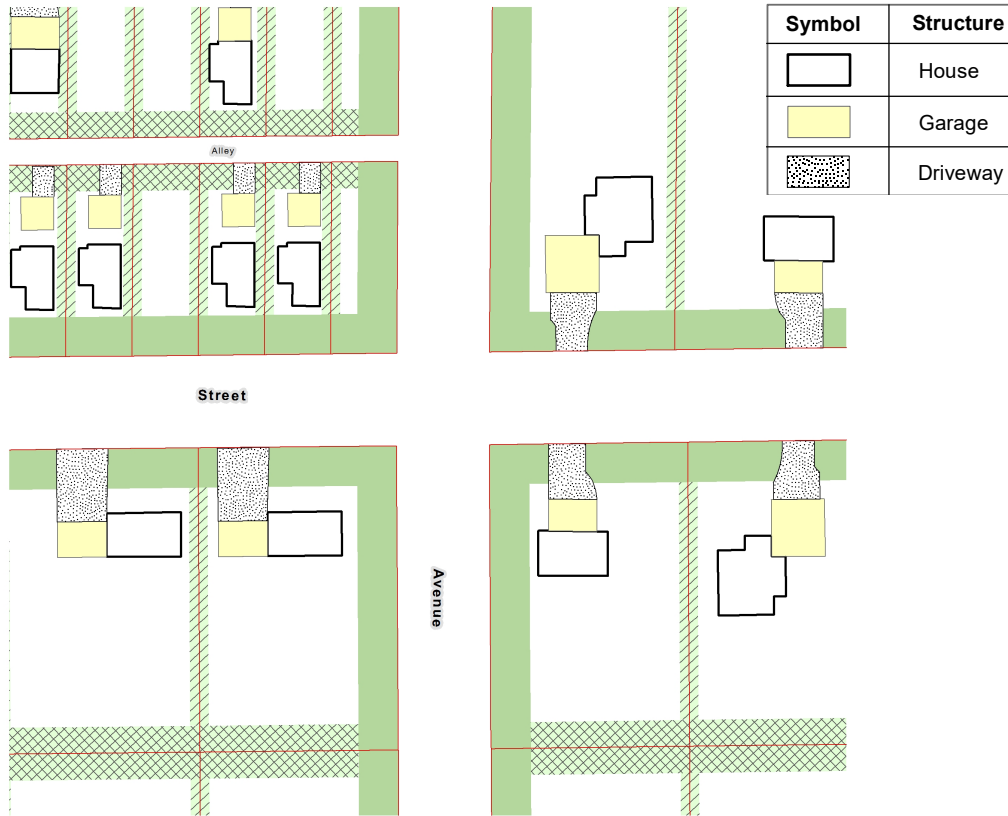


Table 2.08.06.2

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	
			Party Wall Side	Non-Party Wall Side
SYMBOL				
Permitted Uses	25'	20'	0'	5'
Conditional Uses	To be determined by the Board of Adjustment			

*Accessory structures may be placed within fifteen (15) feet of an alley

CHAPTER 2.09 "C" COMMERCIAL DISTRICT

Section 2.09.01 Permitted Uses.

The following uses and structures shall be permitted in the "C" Commercial District:

1. None

Section 2.09.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "C" Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses.

Section 2.09.03 Conditional Uses.

The Board of Adjustment, subject to such requirements, may permit the following uses as a conditional use in the "C" Commercial District as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Churches;
2. Eating establishments;
3. Communication and utility uses;
4. Public buildings and grounds;
5. Personal service establishments;
6. Bar or tavern;
7. On/Off sale liquor establishments;
8. Bed and breakfast;
9. Hotels and motels;
10. On-premise sign.
11. Commercial Storage Buildings;
12. Commercial Campground;
13. Convenience Store

Section 2.09.04 Prohibited Uses.

1. All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “C” Central Commercial District.

Section 2.09.05 Area Regulations.




1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with Tables 2.09.05.1 and 2.09.05.2. and Figure 2.09.05.1.
2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.’
3. Screening - Where any use in the “C” Commercial District is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01.

Table 2.09.05.1

	Recommended Minimum Lot Area*	Recommended Minimum Lot Width*	Recommended Maximum Height*	Recommended Maximum Percent Lot Coverage*
Conditional Uses	20,000 square feet	100’	45’	75%

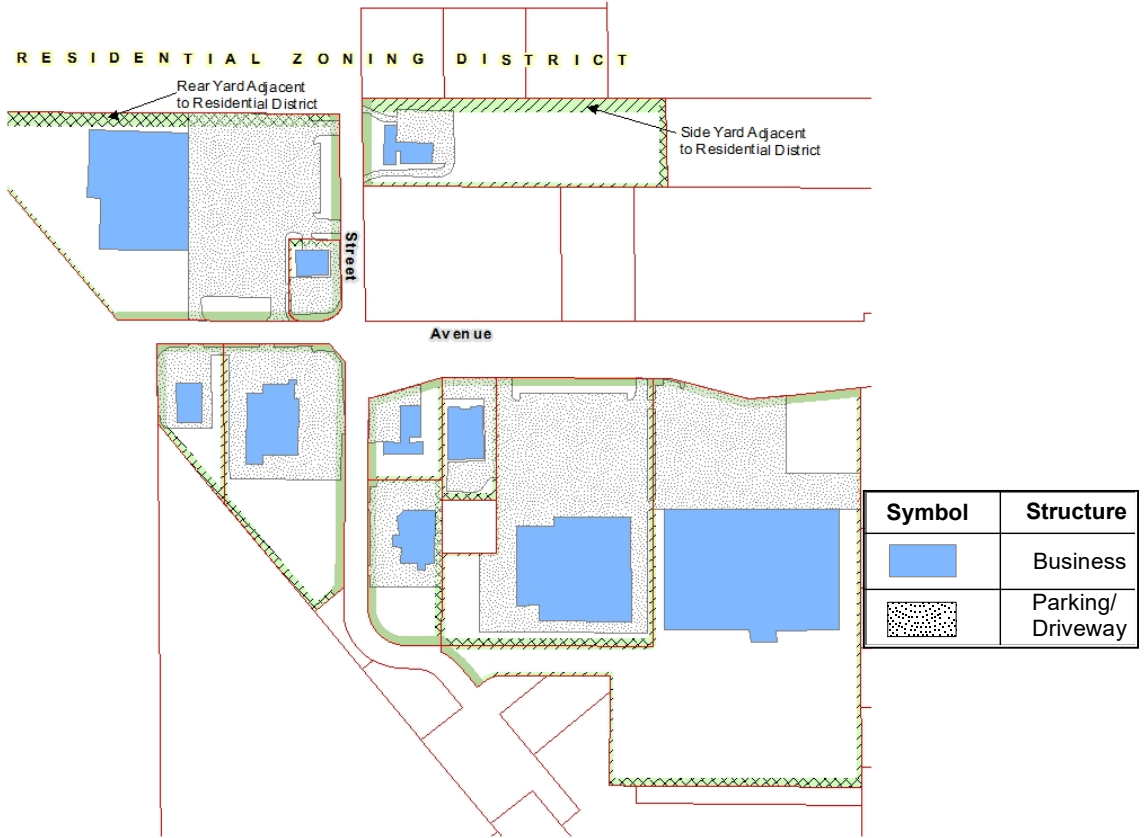
* Final determination will be made by the Board of Adjustment

Table 2.09.05.2

	Recommended Minimum Front Yard	Recommended Minimum Rear Yard		Recommended Minimum Side Yard	
		Adjacent to Ag or Commercial Districts	Adjacent to Residential Districts	Adjacent to Ag, or Commercial Districts	Adjacent to Residential Districts
Symbol					
Conditional Uses	25’*	20’*	40’*	10’*	40’*

* Final determination will be made by the Board of Adjustment

Figure 2.09.05.1



Chapter 2.10 FP FLOOD PLAIN DISTRICT

Section 2.10.01 Statutory Authorization, Findings of Fact, Purpose and Methods of Reducing Flood Losses.

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapters 11-4 & 11-6 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Brant Lake, South Dakota, ordains as follows:

2. Findings of Fact

- a. The flood hazard areas of the City of Brant Lake are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b. These flood losses are caused by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

3. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard;
and

- h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

4. Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations include methods and provisions for:

- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 2.10.02 General Provisions.

1. Lands to which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of City of Brant Lake.

2. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Department of Housing and Urban Development Federal Insurance Administration Flood Hazard Boundary Map (Map) dated September 2, 2009, is adopted by reference and declared to be a part of this ordinance. The Map is on file at the Brant Lake City Office.

3. Compliance

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of these regulations and other applicable regulations.

4. Abrogation and Greater Restrictions

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation

In the interpretation of these regulations, 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.
- d. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of City of Brant Lake, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made there under.

Section 2.10.03. Administration.

1. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 2.10.02 (2) (BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD). A property receiving a Letter of Map Amendment or Letter of Map Revision based upon fill must also obtain a development permit.

Application for a development permit shall be made on forms furnished by the Zoning Official or Finance Officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in questions; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in 2.10.04 (2) (c) (Non-residential Construction); and
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Zoning Official

The Zoning Official for the Zoning Ordinance for the City of Brant Lake as established in Chapter 3.02 administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

3. Duties and Responsibilities of the Zoning Official

Duties of the Zoning Official shall include but not be limited to:

a. Permit Review

- i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.
- ii. Review all development permit to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
- iv. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.
- v. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
- vi. If the proposed development is a building, then the provisions of these regulations shall apply.

b. Uses of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 2.10.02 (2) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the zoning Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with 2.10.04 (2), SPECIFIC STANDARDS.

4. Information to be Obtained and Maintained

- a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b. For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - ii. Maintain the floodproofing certification required in Section 2.10.03 (1) (c).

5. Alteration of Watercourses

- a. Notify adjacent communities and State Coordinating Agency prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

6. Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations provided in Section 2.10.03.7.

7. Variance Procedures

- a. The Board of Adjustment as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- b. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Zoning Official in the enforcement or administration of this ordinance.
- c. Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the courts of competent jurisdiction, as provided in State Statute.
- d. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - i. The danger that materials may be swept onto other lands to be injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;

- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - iv. The importance of the service provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with the existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
- e. The Zoning Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency and the SD Office of Emergency Management.

8. Conditions for Granting Variances:

- a. Generally, 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 items (i-xi) in Section 2.10.03.7.d have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.
- b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

- e. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Section 2.10.03.7.d or conflict with existing local laws or ordinances.
- f. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

Section 2.10.04. 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. Anchoring
 - i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.
 - ii. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. 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. Specific requirements may be:
 - a) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 - b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 - c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - d) Any additions to the manufactured home be similarly anchored.

b. Construction Materials and Methods

- i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- ii. All new construction and substantial improvements shall be constructing using methods and practices that minimize flood damage.
- iii. All new construction and 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.

c. Utilities

- i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals

- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
- ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

- e. Encroachments - Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Specific Standards

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 2.10.03.3.b, Use of Other Base Flood Data, the following standards are required:

a. Residential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated one foot about to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- i. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 2.10.03.4.b.
- iv. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest floor elevated or floodproofed to one foot above the base flood elevation.

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 (1) foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level 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 subsection. 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 Zoning Official.

c. Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are 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:

- i. A minimum of two (2) 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.
- ii. The bottom of all openings shall be no higher than one foot above grade.
- iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**ARTICLE III
ADMINISTRATION**

CHAPTER 3.01 GENERAL

Section 3.01.01 Permits Required.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Zoning Official. The Zoning Official except in conformity with the provisions of this Ordinance shall issue no permit, unless he received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this Ordinance.

It shall be unlawful to commence the excavation for or the construction of any building or any accessory building, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Official has issued a building permit for such work. A building permit is also required for any filling, grading, lagooning, or dredging which is related to site preparation for future construction

Section 3.01.02 Applications.

All applications for building and use permits shall be made to the Zoning Official. The application shall be signed by the owner, or authorized agent. Application shall be accompanied by a site plan showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Official, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this Ordinance. Such plans and data accompanying the permit shall be final and conclusive, and a deviation therefrom shall be deemed a violation of this Ordinance and shall require a new building/use permit.

Section 3.01.03 Fee Schedule.

The City Council shall by resolution establish a schedule of fees, charges, and expense and a collection procedure for building permits, conditional use permits, variances, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees may be altered or amended only by the City Council.

The current fee schedule shall be available from the Zoning Official. All fees shall be the property of the City and shall be paid to the City Finance Officer for credit to the General Fund of the City, which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 3.01.04 Building/Use Permit.

1. Issuance of a Building/Use Permit. If the proposed excavation alteration, construction, or change of use, as set forth in the application for a Building/Use Permit are in conformity with the provisions of this Ordinance, and other regulations of the City then in force, the Zoning Official shall issue or deny a building/use permit for such excavation, construction, alteration or change in use within a reasonable time from the date the application is submitted.
2. If a building/use permit is refused, the Zoning Official shall thereupon provide notice of such refusal to the applicant with the cause for denial.
3. A Building/Use Permit shall be deemed to authorize, and is required for both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect, so long as such building and the use thereof or the use of such land is in full conformity with the requirements of this ordinance and any requirements pursuant thereto. However, on the serving of a written notice by the Zoning Official of any violation of any of the said provisions or requirements with respect to any building or the use thereof or of land, the Building/Use Permit for such use shall without further action, be null and void, and a new Building/Use Permit shall be required for any further use of such building or land.
4. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this Ordinance. A building/use permit shall become null and void twelve (12) months from the date of issuance thereof unless substantial progress has been made by that date on the project described therein. Said building/use permit shall be canceled by the Zoning Official and notice thereof shall be provided to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building/use permit has been issued. If substantial progress has been made within twelve (12) months from the issuance of the permit but has not been completed, the Zoning Official may extend the building/use permit and additional twelve (12) months.
5. Permits Displayed. It shall be unlawful to commence work until the building permit is displayed in a conspicuous place. The permit shall be placed upon the premises at all times from the beginning until the completion of such construction, alteration, repair, occupancy or change of use.

CHAPTER 3.02 ZONING OFFICIAL

Section 3.02.01 Establishment and Purpose.

The position of Zoning Official is hereby established for the City of Brant Lake. The Zoning Official may be employed by the City or other entity in another position. The City Council shall appoint the Zoning Official. Further, he/she may be provided with the assistance of such other persons as the City Council may direct. The Zoning Official shall administer and enforce this Ordinance. It is the intent of this Ordinance that questions of interpretation and enforcement shall be first presented to the Zoning Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Official.

Section 3.02.02 Duties.

The powers and duties of the Zoning Official shall be as follows:

1. Issue all building/use permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Prepare documents, easements, letters of assurance, waivers, etc. as required by this Ordinance, or at the direction of the City of Brant Lake Planning Commission and/or the City of Brant Lake Board of Adjustment and/or City of Brant Lake City Council.
8. Provide public information relative to all matters arising out of this Ordinance.
9. Forward to the Planning Commission all plats and/or applications for amendments to this Ordinance.
10. Forward to the Board of Adjustment, applications for appeals, conditional uses, variances, or other matters on which the Board of Adjustment is required to pass under this ordinance.
11. Initiate, direct, and review, from time to time, a study of the provisions of this Ordinance, and to make such reports available to the Planning Commission.
12. The Zoning Official shall receive applications required under this ordinance, specifically but not limited to Building Permits, Conditional Uses, Variances, and Zoning Amendments.
 - a. For building permits, the Zoning Official shall approve the application only in accordance with the provisions of the City's Zoning Ordinance.
 - b. For Conditional Uses and Variances, the Zoning Official shall review the application, and shall make recommendations regarding said application to the Board of Adjustment.

- c. For Zoning Amendments, the Zoning Official shall review the application, and shall make recommendations regarding said application to the Planning Commission and City Council.

Section 3.02.03 Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this regulation, or whenever the Zoning Official or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises a regulation violation, the Zoning Official or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Zoning Official by this ordinance, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Zoning Official or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Zoning Official or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Zoning Official or an authorized representative for the purpose of inspection and examination pursuant to this regulation.

Section 3.02.04 Stop Order.

Whenever any work is being done contrary to the provisions of this ordinance, the Zoning Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Zoning Official to proceed with the work.

Section 3.02.05 Occupancy Violation.

Whenever any building or structure regulated by this ordinance is being used contrary to the provisions of this ordinance, the Zoning Official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such persons shall discontinue the use within the time prescribed after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this ordinance.

CHAPTER 3.03 PLANNING COMMISSION AND BOARD OF ADJUSTMENT

3.03.01 Establishment.

1. The Planning Commission shall consist of the membership of the City Council.
2. A Board of Adjustment is hereby established, which shall consist of the City Council President and members of the City Council, as provided for in the provisions of Chapter 11-4, South Dakota Codified Laws and Amendments.

3. The City Council shall appoint two (2) alternates for the Board of Adjustment. If a City Council Member or City Council President acting as a Board of Adjustment member is unable to attend a meeting, the first alternate, or second alternate in turn, shall serve in the member's place. Alternates may be appointed for a term of three (3) years.

Section 3.03.02 Procedures for Meetings.

1. The Planning Commission shall meet at such times as may be necessary to accomplish the purposes of their duties, but in no event shall they meet less than once every three (3) months.
2. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
3. The Board of Adjustment shall keep minutes of its meetings and proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the office of the City Finance Officer of the City of Brant Lake, South Dakota and shall be a public record.

Section 3.03.03 Powers and Duties of Board of Adjustment.

The Board of Adjustment shall have the following powers and duties:

1. Administrative Review:
 - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Official in the enforcement of any provision of this Ordinance, and for the interpretation of any regulation contained herein and/or the Zoning Map.
 - b. Conditional Uses:

To hear and determine applications for conditional uses that are authorized in this Ordinance.
 - c. Variances:

Authorize upon appeal in specific cases such variance from terms of the ordinance not contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance is observed, and substantial justice done.

Section 3.03.04 Board has Powers of Zoning Official on Appeals; Reversing Decision of Zoning Official:

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Official.

2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Official from whom the appeal is taken.
3. The concurring vote of two-thirds (2/3) of the all members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Official.

Section 3.03.05 Hearings; Appeals; Notice.

1. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the zoning official which is not a ministerial act or other preliminary act to bring an application or matter before the board for hearing and a final decision on the merits. Such appeal shall be taken within a thirty (30) days, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. All appeals relating to a particular action or property shall be consolidated and heard on an expedited basis.
2. An appeal to the board of adjustment stays all proceedings in the action appealed from, except ministerial or other preliminary acts necessary to allow consolidated appeals on all matters prior to final decision by the board of adjustment, or unless the officer from whom the appeal is taken shall file a certificate that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
3. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Official or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map. At the hearing, any party may appear in person or by agent or attorney.

Section 3.03.06. Appeals to a Court of Record.

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, landowner, or any officer, department, board, or bureau of the City, may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the City Finance Officer.

CHAPTER 3.04 PROCEDURES FOR CONDITIONAL USES, VARIANCES AND ZONING AMENDMENTS

Section 3.04.01 Conditional Uses.

1. Conditional use permits are allowed for certain uses in some zoning districts. Uses not listed within the individual zoning districts as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

The Board of Adjustment shall follow the following procedure in considering a conditional use permit application. A Conditional Use Permit shall not be granted by the Board of Adjustment unless and until:

- a. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested. Any required attachments and fees as in Section 3.01.03 shall further accompany the application.
- b. The Zoning Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment.
- c. The Zoning Official shall notify the adjacent landowners (excluding streets and alley) by mail at the expense of the applicant, at least one (1) week before the public hearing.
- d. The Zoning Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.
- e. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- f. The Board of Adjustment shall make a finding that it is empowered under the section of this ordinance described in the application to grant the Conditional Use, and that the granting of the Conditional Use Permit will not adversely affect the public interest; and
- g. Before any Conditional Use shall be issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - i. Utilities, refuse, and service areas, with reference to locations, availability, and compatibility;
 - ii. Screening and buffering with reference to type, dimensions, and character;
 - iii. Required yards and other open space; and
 - iv. General compatibility with adjacent properties and other property in the district.

- v. Entrance and exit to property and proposed and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- vi. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties.
- vii. Off-street parking and loading areas where required, with particular attention on effects of the conditional use on adjoining properties and properties generally within the district.
- h. In granting any conditional use, the Board of Adjustment may prescribe appropriate conditions in conformity with this regulation. A Conditional Use Permit shall remain valid only as long as terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment, are complied with. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation and punishable under the terms of this Ordinance.
- i. Approval of any application for a Conditional Use Permit shall be by a two-thirds (2/3) majority of the present and voting Board of Adjustment members.
- j. The Board of Adjustment may, after notice and hearing, revoke a conditional use permit in the event of a violation of any of the conditions upon which such permit was issued. In addition, the conditional use permit may not be transferred during any violation.
- k. A conditional use permit shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Board of Adjustment and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use may be granted by the Board of Adjustment.

Section 3.04.02 Variances.

Variances are designed to allow some flexibility in the Ordinance, in cases where the exceptional shape of a parcel of land, in cases where use of a property is overwhelmingly effected by exceptional topographic conditions, or any other extraordinary situation or condition of such a parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of this Ordinance present an undue hardship on such property owner's use of such parcel land. A variance shall include a description of the specific regulatory item or items in this Ordinance which are found to produce, said undue hardship. Variances shall only be granted when the Board of Adjustments finds that such relief from this Ordinance will be neither detrimental to the public good nor in conflict with the intent of this Ordinance.

The Board of Adjustment shall follow the following procedure in considering a variance application. A variance shall not be granted by the Board of Adjustment unless and until:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Zoning Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

- a. A written application for a variance use is submitted, indicating the section of the Ordinance under which special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district. Any required attachments and fees as in Section 3.01.03 shall further accompany the application.
- b. The Zoning Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment.
- c. The Zoning Official shall notify the adjacent landowners (excluding streets and alley) by mail at the expense of the applicant, at least one (1) week before the public hearing.
- d. The Zoning Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.
- e. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- f. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest. No variance from the terms of this ordinance shall be granted by the Board of Adjustment if any of the following occur:
 - i. There are no special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are applicable to other land, structures, or buildings in the same district;
 - ii. The literal interpretation of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - iii. The special conditions and circumstances result from the actions of the applicant;
 - iv. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
 - v. The granting the variance request would confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- g. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- h. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under the terms of this Ordinance.

- i. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- m. Approval of any variance shall be by a two-thirds (2/3) majority of all members of the Board of Adjustment.
- n. A variance shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Board of Adjustment and prior to the variance expiration date, a one (1) year time extension for the variance may be granted by the Board of Adjustment.

Section 3.04.05 Zoning Amendments.

Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the Planning Commission, as provided herein, the City Council may change zoning district boundaries, use groups, or the regulations established by this Ordinance. A proposed change of zoning district boundaries may be initiated by the Planning Commission, City Council, or by application of one or more of the owners of property within the area requested to be changed. A proposed change of zoning regulations may be initiated by the Planning Commission, City Council, or by petition by twenty (20) percent of the landowners in the zoning district or districts requesting change. The City Council may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting a Zoning Amendment shall be followed:

1. The landowner or other person(s) requesting the Amendment shall complete an application for Amendment, available from the Zoning Official. Completed applications shall be returned to the Zoning Official for review. To be considered by the Planning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:
 - a. Any required attachments and fees, including Registered or Certified Mail costs in Section 3.01.03; and
 - b. Any additional information, as requested by the Zoning Official, as lawfully may be required to determine conformance with and provide for enforcement of this Ordinance.
 - c. The Zoning Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.
 - d. The Zoning Official shall set the date, time, and place for a joint public hearing to be held by the Planning Commission and City Council. The Zoning Official shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Official shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.

- e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- f. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.
- g. The City Council shall either approve or not approve the ordinance describing the proposed changes to this Ordinance, in accordance with standard procedures for reading, approval, publication, and effective date.
- h. When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds of the members of the City Council.
 - i. Protest Standard: The protest shall be signed by at least forty (40) percent of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

Section 3.05.07 Reapplication.

No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission, Board of Adjustment or City Council before the expiration of one (1) year from the date of the final action of the Planning Commission, Board of Adjustment or City Council.

**ARTICLE IV
SUPPLEMENTAL REGULATIONS**

CHAPTER 4.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

On a corner lot in any residential district, no planting or obstruction to vision between the range of three (3) feet and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line, each of which is fifty (50) feet distance from the point of intersection (Clear View Triangle).

CHAPTER 4.02 FENCES.

Section 4.02.01 Construction Limitations

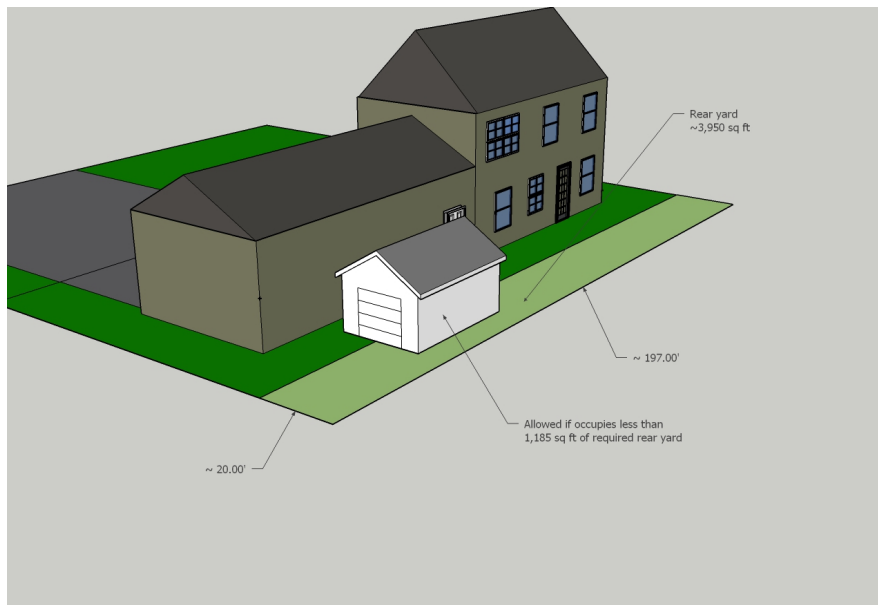
1. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Chapter 4.01.
2. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the City of Brant Lake any fences of any character or material, without first securing permission from the Zoning Official.
3. Fences that are adjacent to alleys shall be set back ten (10) feet from the street/boulevard right-of-way.
4. Prior to the issuance of a permit for a fence, abutting property owners shall be notified.
5. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.
6. Notwithstanding other provisions of this ordinance, fences, walls, and hedges with a maximum height of not more than seven (7) feet high, may be erected on any part of a lot other than in the required front yard, which shall be limited to a height of four (4) feet.
7. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.
8. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the City of Brant Lake corporate limits any fences of any character or material closer than one (1) foot to the sidewalk line or property line. Exception: A fence/wall/hedge may be placed on the property line provided the fence/wall/hedge is shared between property owners and agreement providing for the maintenance of said fence/wall/hedge is recorded at the Register of Deeds.

9. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The City further requires fencing materials to be “new” – used for first time installation. Individuals wishing to utilize “used” – not first-time installation fencing materials shall require Board of Adjustment approval. No barbed wire or above ground electric fence shall be used in the construction of any fences within the residential or commercial zoning districts or on the property lines separating commercial zoned property with residentially zoned property.

CHAPTER 4.03 ACCESSORY BUILDINGS

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.
3. No accessory building which is attached to or within five (5) feet of a principal structure shall be erected in any required yard, and no separate accessory building shall be erected within five (5) feet of any other building.
4. No accessory building may be used for residential dwelling purposes at any time.
5. An accessory building may be located in a rear yard but not occupy more than ten (10) percent in the R1L District or thirty (30) percent of a rear yard in any other zoning district without approval of the Board of Adjustment. (See Figure 4.03.5)

Figure 4.03.05



- 6. No separate accessory building shall be erected within five (5) feet of any side or rear lot line.
- 7. Residential Districts.

Accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of Table 4.03.1 hereby adopted by reference and declared to be part of this Ordinance.

- 8. Commercial District.

In any commercial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

- 9. Agricultural District.

In the Agricultural district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

Table 4.03.1

Permitted Uses: Principal Use	Permitted Accessory Uses
Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers	<ol style="list-style-type: none"> 1. Private garages. <ol style="list-style-type: none"> a. In R1L, R1 and R2 districts - Attached and unattached garages shall be limited to maximum dimensions of 1,200 square feet, and shall have sidewalls that either conform to the design of the house or have a maximum height of twelve (12) feet, whichever is greater b. Unattached Garages shall have siding material of a type customarily used on site-constructed residences and be comparable to the existing dwelling with the color coordinated to the existing dwelling. 2. Buildings or structures for customary residential storage purposes not over ten (10) feet in height and not exceeding one hundred fifty (150) square feet in gross floor area. 3. Readily moveable sports, recreation, or outdoor cooking equipment. 4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved. 5. Home occupations but only as defined herein. 6. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan. 7. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance. 8. Accessory uses in the required Rear Yard of the R1L District that obstruct the sight line of adjacent properties need to be approved by the Board of Adjustment.
All Conditional Uses	<ol style="list-style-type: none"> 1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use
All other items	<ol style="list-style-type: none"> 1. No accessory uses permitted.

CHAPTER 4.04 SIGNS AND OUTDOOR ADVERTISING.

Section 4.04.01 On-Premise and Off-Premise Signs:

1. Prohibited signs:
 - a. No sign shall be erected or maintained which creates a hazard due to collapse, fire, collision, decay, or abandonment; or creates traffic hazards, by either:
 - i. Confusing or distracting motorists; or
 - ii. Impairing the driver's ability to see pedestrians, obstacles or other vehicles; or
 - iii. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or
 - iv. Creates a nuisance to persons using a public right-of-way; or
 - v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.
 - b. Any vehicle or trailer parking on public right-of-way, public property or private property so as to be visible from the public right-of-way and which displays an advertising message, unless said vehicle is used in the regular course of a business.
2. Signs shall be permitted in zoning districts per Article III, subject to the following provisions:
 - a. Wall signs may be located anywhere on the wall of a building.
 - b. Signs shall not project over public property.
 - c. Signs shall not be erected adjacent to a corner of two (2) intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. See Chapter 5.01.
 - d. Each sign – size, lighting, and location - in the City shall at least meet the standards established by the South Dakota Department of Transportation.
 - e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Zoning Official and the said Official grants a permit therefore.
 - f. The Zoning Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with codes relating to outdoor advertising.
3. On-premise Signs: Each sign erected as an on-premise sign in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:

- a. Each sign erected as an on-site sign in those districts where permitted shall have a maximum surface area of eighty (80) square feet and shall observe all yard and height requirements of the district in which it is located. The maximum cumulative amount of all on-site signage allowed shall not exceed eighty (80) square feet. Further, no on-premise sign may be converted to an off-premise sign.
 - b. No on-premise sign may be converted to an off-premise sign.
4. Off-premise Signs: Off-premise signs erected in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:
- a. Off-premise signs shall have a maximum surface area and height and location to be determined by the Board of Adjustment.
 - b. Stacked signs (two or more signs stacked vertically on a single sign structure are prohibited.
 - c. Portable or temporary off-premise signs may utilized five (5) days prior to an approved event.

CHAPTER 4.05 PARKING

Section 4.05.01 Parking, Storage, or Use of Major Recreation Equipment.

For purposes of these regulations, major recreational equipment is defined as including boat docks/lifts, boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

No off-street parking of motor vehicles, major recreational equipment, watercraft or trailers should be permitted in the required front yard of any residence except as follows:

1. Upon a driveway providing direct access to the garage or rear yard;
2. Upon any other driveway provided that it is no wider than twenty-two (22) feet;
3. Upon the yard area between the driveway and the nearest side lot line.
4. Upon the yard area of the non-lake front property of the R1L District

With the exception of an incidental, temporary, short-term use of major recreation equipment, no such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 4.05.02 Parking and Storage of Certain Vehicles:

Automotive vehicles or campers of any kind or type without current license plates shall not be parked or stored on any commercially or residentially zoned property other than in completely enclosed buildings.

CHAPTER 4.06 STRUCTURES TO HAVE ACCESS

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

CHAPTER 4.07 YARDS

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

Section 4.07.01 Yards, Reduction in Size.

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 4.07.02 Additional Yard Requirements.

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. A corner lot must have a front yard on both streets.
2. On developed property, in all Lake Park Districts fronting on one (1) side of the street between two (2) streets where one (1) or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line.
3. On through lots and reversed frontage lots, a front yard must be provided on both streets.
4. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

Section 4.07.03 Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. In commercial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.

3. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

CHAPTER 4.08 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 4.09 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Article II do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

CHAPTER 4.10 MODULAR HOME PROVISIONS.

Section 4.10.01 Modular Homes.

1. Modular homes shall meet the following regulations.
 - a. Modular homes shall meet or exceed the 2018 International Building Code.
 - b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
 - c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and eight hundred fifty (850) square feet split and be placed on a permanent foundation.
 - d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
 - e. Modular homes shall have a minimum of a 4/12-roof pitch.
 - f. Have siding material of a type customarily used on site-constructed residences.
 - g. Have roofing material of a type customarily used on site-constructed residences.

CHAPTER 4.11 PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes in an approved manufactured home park, provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather-related events.

CHAPTER 4.12 PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS)

All existing septic tanks shall be considered non-conforming. All structures used for human habitation, and commercial use must be connected to the sanitary sewer district's sanitary sewer system. All structures within four hundred (400) feet of the Brant Lake Sanitary Sewer District's sanitary sewer system shall be connected to the system at the landowner cost.

CHAPTER 4.13 MOVED IN BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the City unless and until a permit to do so has been obtained from the Board of Adjustment. No permit shall be issued until the following requirements are met.
 - a. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.
 - b. That it shall have been shown to the satisfaction of the Board of Adjustment that the said house or other building is generally compatible with the zoning district and complies with the gas, plumbing, electrical, and construction requirements of the City of Brant Lake.
 - c. That the work is to be completed within twelve (12) months after the permit has been issued by the Zoning Official.
 - d. The applicant may also be required to file with the City Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the City, the Zoning Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.
 - e. Any building, which is not newly constructed to be used for first occupancy, shall also meet the following minimum requirements to obtain a permit.
 - i. The written consent of fifty (50) percent of the number of owners within one hundred fifty (150) feet (excluding streets and alleys) of said proposed location has been received.
 - f. That applicant shall file with the Zoning Official the route to be taken in so moving/removing the building and length of time which may be consumed in the work.
 - g. Nothing in the permit shall be construed as authorizing the holder thereof or his agents to break, injure or move any light or telephone poles or wires, or in any way injure shade trees or other property without the permission of the owner or owners thereof.

CHAPTER 4.14 SCREENING

Where any “C” use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where planting or fencing may be in conflict with Chapter 4.01 or Chapter 4.02.

CHAPTER 4.15 REFUSE

In all Zoning Districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a complete enclosed building or specially designed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash.

CHAPTER 4.16 UNLICENSED VEHICLES

Vehicles not in use and without a current license may not be kept in any uncovered area other than designated junk or salvage yard.

CHAPTER 4.17 HOME OCCUPATION.

A home occupation is a business conducted in a dwelling unit, provided that the occupation is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use. For the purposes of minimizing conflicts with neighboring residentially used property, the City of Brant Lake has established minimum performance standards for home occupations.

Section 4.17.01 Performance Standards.

1. No person other than members of the family residing on the premises shall be engaged in such occupation;
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than 25 percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation. Exception: in-home day cares providing care for less than 12 children in a 24-hour period may utilize more than twenty-five percent (25%) of the floor area of the dwelling unit;
3. 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 one sign, not exceeding two (2) square-foot in area, non-illuminated, and mounted flat against the wall of the principle building; and
4. 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. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

5. 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.
6. Notwithstanding the preceding standards, any operation that provides care for more than 12 children in a 24-hour period shall not be considered a home occupation.
7. No home occupation shall be conducted in any accessory building without Board of Adjustment approval.
8. There is no commodity sold upon the premises, except that which is prepared on the premises in connection with such occupation or activity.

CHAPTER 4.18 UTILITY EASEMENTS.

No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

CHAPTER 4.19 BED AND BREAKFAST.

The regulations regarding Bed and Breakfast Establishments (hereafter referred to as B & B's) shall be as follows:

B & B's shall be limited to residential structures.

1. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
2. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.
3. Such uses shall be an incidental use with an owner-occupied principal dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.
4. Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.
5. Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
6. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

Chapter 4.20 Shoreline Alterations, Filling, Grading, Lagooning and Dredging

These regulations shall apply to the R1L District. These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland.

1. Removal of Shore Cover

Tree and shrub cutting in a strip paralleling the shoreline and extending twenty-five (25) feet inland from all points along the high-water mark, or as determined by the Board of Adjustment shall be limited in accordance with the following provisions:

- a. Cutting shall leave sufficient cover to screen cars, dwellings, and accessory structures, except boathouses, as seen from the water, to preserve natural beauty and to control erosion.
- b. Trees and natural shrubbery shall be preserved as far as practicable.
- c. Except in the event of voluntary growth, storm damage, or death/disease, the removal of trees and natural shrubbery and its replacement shall require the granting of a permit by the Zoning Official. Application for such permit shall be accompanied by a plan showing the work to be accomplished. The granting of such permit shall be conditional upon a contract requiring the applicant to give to the Zoning Official, within one (1) year after the date of grant, satisfactory evidence of compliance with such plan or pay for the cost of such compliance by the City.

2. Filling, Grading, Lagooning and Dredging

- a. Filling, grading, lagooning or dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation or impairment of fish and aquatic life is prohibited.
- b. A permit shall be required for any filling or grading which is within three hundred (300) feet horizontal distance of a natural body of water and which has surface drainage toward the water and in which there is:
 - i. Filling of more than five hundred (500) square feet of any wetland which is contiguous to the water;
 - ii. Filling or grading on all slopes of twenty percent (20%) or more. (This does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.)
 - iii. Where more than ten thousand (10,000) square feet of the bank of a natural body of water is exposed by grading.

- iv. A permit shall be required before constructing, dredging or commencing work on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within three hundred (300) feet of the high-water mark, or from a point as determined by the Board of Adjustment, of a natural body of water or where the purpose is the ultimate connection with such body of water. This requirement does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.
- c. A permit is not required for soil conservation practices, approved by the Natural Resources Conservation Service (NRCS), such as terraces, run-off diversions and grassed waterways which are used for sediment retardation.
- d. Building permits shall be required for all retaining walls or structures.
- e. Issuance of the permit may, at the request of the Zoning Official, include review from the Corps of Engineers, US Fish and Wildlife and/or any other applicable Federal, State or Local agencies.

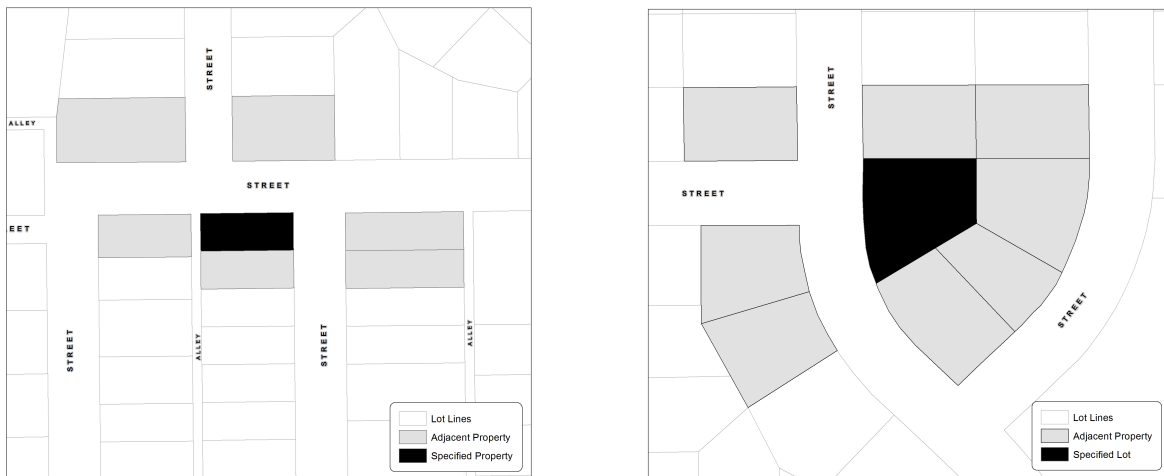
ARTICLE V DEFINITIONS

CHAPTER 5.01 GENERAL TERMS

For the purpose of this Ordinance, certain terms or words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural; and the plural the singular; the word “building” shall include the word “structure,” and the word “shall” is mandatory and not discretionary; the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word “lot” includes the words plat or parcel and the words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied. Any word not herein defined shall be as defined in any recognized Standard English Dictionary.

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adjacent Property: Any lot, parcel, or property bordering by means of adjoining, abutting, or intersecting a specified lot boundary, and those lots immediately across a public right-of-way from a specified lot. See Figures Below:



Alley: A minor way, dedicated to public use, which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

Agriculture: The cultivation of the soil and all activities incident thereto, except that said term shall not include the raising and feeding of animals.

Alter or alteration. Any change, addition or modification in construction or occupancy.

Antique Car. An antique car must be at least twenty-five (25) years of age or older.

Applicant. An individual, a corporation, a group of individuals, partnership, joint venture, owners, or a business who request or seeks application approval under the terms of this ordinance.

Area of Special Flood Hazard. The land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

Automobile Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. This definition does not include storage, body repair or auto salvage operations.

Bar/lounge: An establishment that is licensed to sell alcoholic beverages by the drink.

Base Flood Elevation (BFE) – Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement. A basement has more than one-half (½) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes. Also, in reference to Section 1105, a basement is any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast (B & B's): A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding residential properties and shall comply with Chapter 4.19.

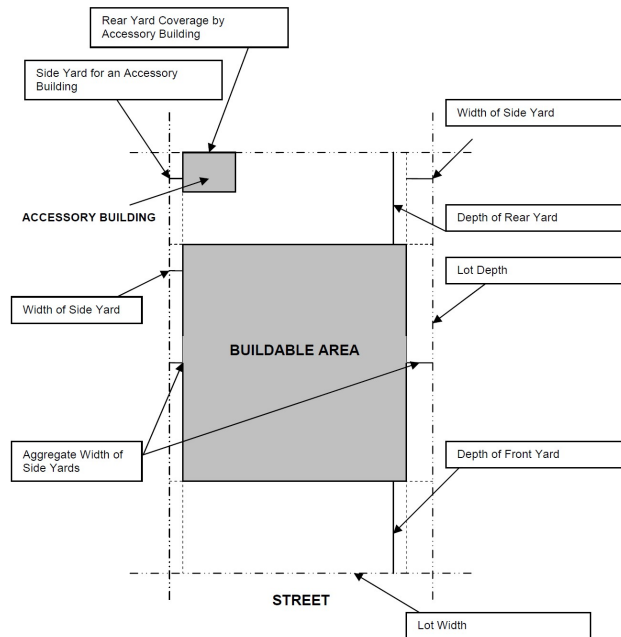
Block: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river, Lake or rail line.

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

Buffer: The use of land, topography, space, fences, or landscape planting to partially screen a use or activity from another property and thus reduce undesirable views or influences.

Buildable Area. The buildable area of a lot is the space remaining after the minimum setback requirements of this Ordinance have been complied with. The diagram below illustrates the buildable area of a hypothetical lot. This diagram is for reference only. Setbacks and other requirements vary from district to district. (See illustration below).

Buildable Area Illustration



Building: The word “building” includes the word “structure” and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

Building Height: The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

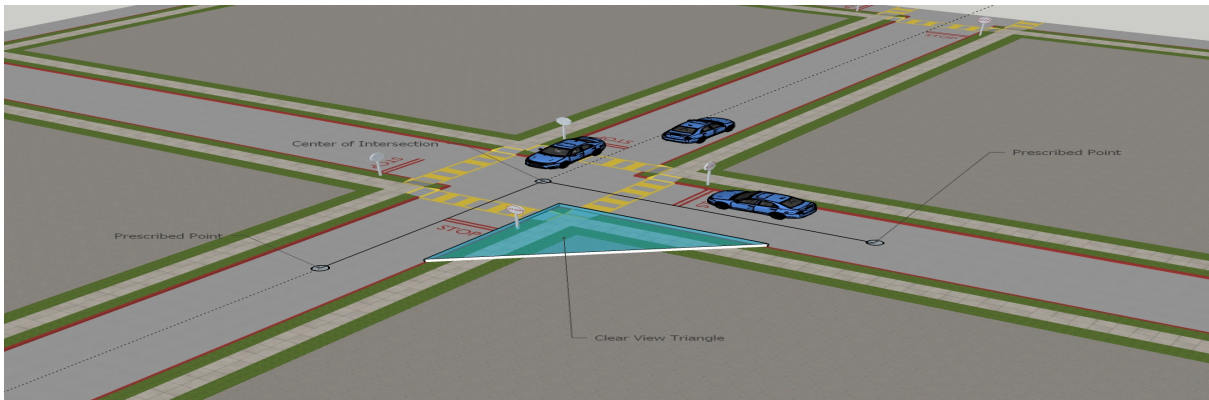
Building Line: Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

Campground: Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

Car Wash: A facility used to clean the exterior, and sometimes the interior, of automobiles.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Clear View Triangle: A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



Club, Private. Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business. The structure is not available for public use or participation.

Common Ownership. A single, corporate, cooperative, or other joint operation venture.

Commercial Storage, Mini-Storage Facilities: Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

Comprehensive Plan: The adopted long-range plan intended to guide the growth and development of The City of Brant Lake.

Conditional Use: A use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district. A conditional use is subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district. Conditional uses are subject to evaluation and approval by the Board of Adjustment and are administrative in nature.

Condominium: The ownership of single units in a multi-unit residential structure with common elements. (With the property subject to the condominium regime established pursuant to SDCL 43-15A).

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

Convenience Store. Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

Density. The number of families, individuals, dwelling units, or housing structures per unit of land.

Development. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

Dredging. Any of various practices utilizing machines equipped with scooping or suction devices that are used to deepen harbors, lakes, and waterways and in underwater mining.

Dwelling. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either permanently or transiently.

Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family. A detached residential dwelling building, other than a manufactured home but to include modular homes, designed for and occupied by one (1) family only.

Dwelling, Two Family. A residential building containing two household units, designed for occupancy by not more than two (2) families.

Dwelling 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 in the same structure, and containing independent cooking and sleeping facilities.

Engineer. Means any engineer licensed by the State of South Dakota.

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as an individual housekeeping organization. A family may include three (3), but not more than three (3) persons not related by blood, marriage or adoption. This definition shall not include foster families as regulated by the State of South Dakota.

Essential Public Services. Overhead or underground electrical, gas, petroleum products (i.e. gas, natural gas, oil), steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures used by public for protection of the public health, safety or general welfare, including towers, poles, wires, mains drains, sewers, pipes, conduits, cables satellite dishes, and accessories in connection therewith.

Fence. A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

Flood or Flooding. Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

3. **Mudslides (i.e., mudflows)** which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; Or the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Elevation Determination. A determination by the Zoning Official of the water surface elevations of the base flood, that is, the flood level that has a one (1) percent or greater chance of occurrence in any given year.

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Zoning Official has delineated both the special hazard areas and the risk premium zones applicable to the community.

Garage, Private. An accessory building used for the storage of vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, trailers, and boats.

Grade. The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Grading. The act or method of moving soil to reshape the surface of land or a road to a desired level or grade.

Grandfather"ed" Clause. A clause in a law that allows for the continuation of an activity that was legal prior to passage of the law but would otherwise be illegal under the new law.

Greenhouse. A building whose roof and sides are made largely of glass regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Group Home. A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

High Water Mark. The elevation established by the South Dakota Water Management Board pursuant to SDCL 43-17. In those instances where the South Dakota Water Management Board has not established a high water mark the Board of Adjustment may consider the elevation line of permanent terrestrial vegetation to be used as the estimated high water mark (elevation) solely for the purpose of the administration of this ordinance. When fill is required to meet this elevation, the fill shall be required to stabilize before construction is begun.

Home Occupation. See Chapter 4.17

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 four (4) or more guest rooms, and which is open to the public and transients.

Kennel. Any place where more than one (1) dog or cat over four (4) months of age are owned, boarded, raised, bred or offered for sale.

Lagooning. The process of creating a shallow body of water, separated from a larger body of water.

Licensed Day Care Center. Any operation, which provides childcare services. To be considered a Day Care Center under these regulations, the State of South Dakota must license such operation.

Letter of Assurances. A list of conditions signed by the applicant for a permit acknowledging agreement to follow the conditions of the permit.

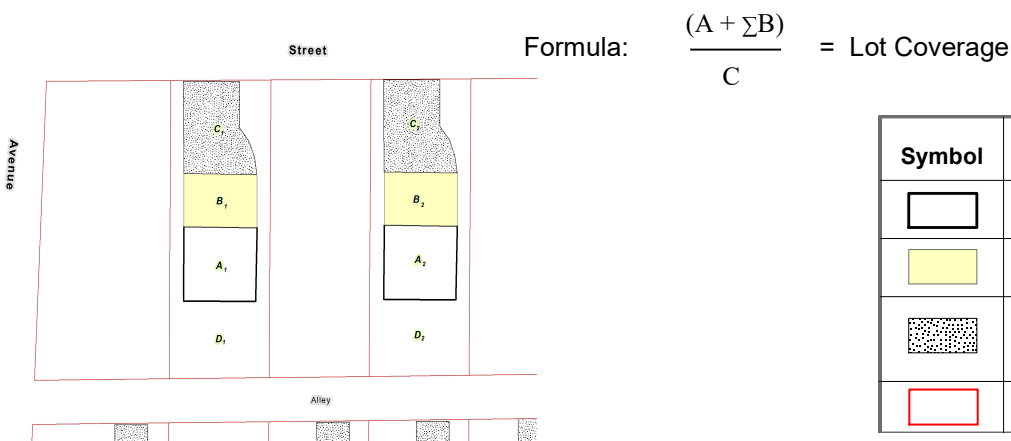
Lot. A lot is any plot or parcel of land having specific boundaries of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. A lot have its principal frontage upon a road or other approved access.

Lot, Buildable.

1. A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance including one (1) principal building together with its accessory buildings, the open spaces and parking spaces required by this ordinance.
2. A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds at the time of the adoption of this Ordinance, or an irregular tract lot described by a deed recorded in the office of the Register of Deeds at the time of the passage of this Ordinance; provided that if a lot has less width or area as required by this Ordinance, the lot is not a buildable lot.

Lot Area. The lot area is the land in square feet, within the lot line.

Lot Coverage. The percentage determined by dividing the area of a lot covered by the total (in square feet of: (A) the footprint of the primary structure; and (B) the footprint(s) of all accessory structures by the total lot area. (See formula and figure below):



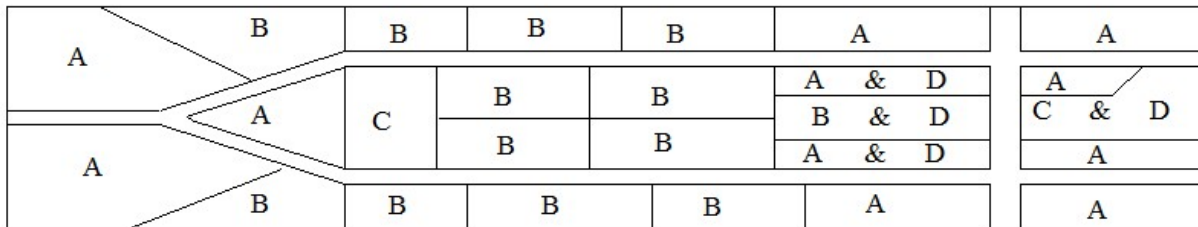
Lot, Depth of. The average horizontal distance between the front and rear lot lines.

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. 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. A line marking the legal limits of the property of a person. The term property line and lot line shall have the same meaning

Lot of Record. A lot which is part of a subdivision recorded in the office of the Lake County Register of Deeds, prior to the adoption of this ordinance.

Lot Types. See figure below.



Corner lot. defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (Lot A and Lot A & D)

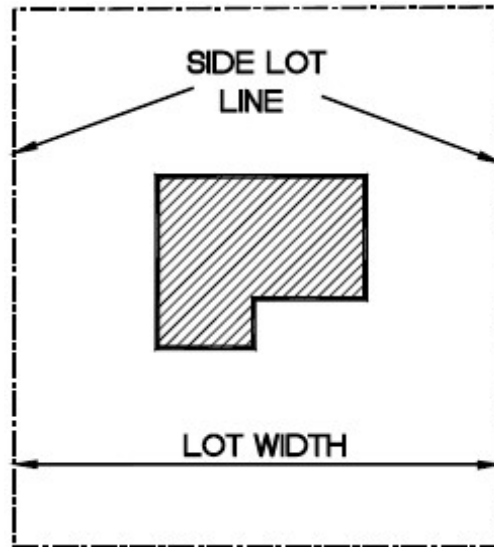
Interior Lot. Defined as a lot other than a corner lot with only one frontage on a street. (Lot B)

Through Lot. defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. (Lot C and Lot C & D).

Reversed Frontage Lot. defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (Lot A & D in the diagram below), an interior lot (Lot B & D in the diagram) or through lot (Lot C & D)

Lot Width. The width of a lot is the mean distance between straight side lot lines measured at a point fifty (50) feet back from the front yard lot line thereof (see below).

Lot Width Illustration



Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 2.10.

Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Modular Home. See Section 4.10

Moved-In Building. A building that previously existed on a lot of different location relocated for use as a residence, out-building, commercial, industrial or any building used in relation to these uses shall be recognized as a moved-in building.

Nonconforming Use. Any building or structure, 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.

Non-standard Use. The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

Nursery. A place where trees, shrubs, vines and/or flower and vegetable plants are grown and/or are offered for sale, to be transplanted onto the lands of the purchaser by the purchaser or by the nursery establishment itself.

Outdoor Storage. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Owner. Any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within City of Brant Lake who desires to develop, or construct, build, modify, or erect a structure upon such parcel of land.

Parcel. A single tract of land, located within a single block, which at the time of filing for a Building/Use Permit, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure, for which the Building/Use Permit are issued and including such area of land as may be required by the provisions of this Ordinance for such use, building or structure.

Parking Space. An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley.

Parks and Recreation Areas. Public non-commercial recreation facilities open to the general public and requiring minimal structural development, including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, public campgrounds swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including private, commercial campgrounds, commercial recreation and/or amusement centers.

Permit. A permit required by these regulations unless stated otherwise.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person. In addition to an individual, includes the following terms: "firm", "association", "organization", "partnership", "trust", "company", or "corporation", "joint venture", "public service company", "cooperative", "political subdivision", "municipal corporation", "government agency", "public utility district", or any other entity, public or private, however organized.

Personal Services. These establishments offer a wide range of personal services (laundry, hair care, etc.).

Planning Commission. The members of the City Council or a body appointed by the City Council serving in an advisory capacity on planning and zoning matters.

Principal Use. The primary use to which the premises are devoted.

Plat. The map, drawing or chart on which the subdivider's plan of subdivision is legally recorded.

Recreational Vehicle. A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

Resort. This category provides commercial hospitality lodgings in spacious settings that are principally intended for vacationing, relaxation and conference activities for visitors to the community.

Retail Sales and Trade. Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating and drinking establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.

Screening. Earthforms, walls, fences, plant material or other structures or devices intended to partially obscure, conceal or protect from off-site view.

Seasonal Camp Trailers or Recreational Vehicles. A vehicle designed for temporary seasonal living quarters.

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

Setback. The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

Sheet Siding. Any siding material customarily installed as a sheet and composed of galvanized, painted or bonded metal, and customarily installed in a vertical manner but also capable of being installed horizontally.

Shorelands. All land within one hundred (100) feet of the lake.

Sign. Any device or structure, permanent or temporary, which directs attention to business, commodity, service or entertainment but excluding any flag, badge or insignia of any government agency, or any civic, charitable, religious, patriotic or similar organizations.

Sign, Abandoned. A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three (3) months shall be considered an abandoned sign.

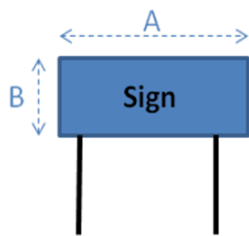
Sign. Off-premises. Any sign identifying or advertising a business, person, activity, goods, products or services at a location other than where such sign has been erected.

Sign, On-premises. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign has been erected.

Sign Structure. Any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

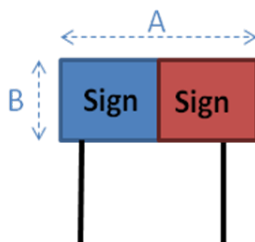
Sign Area. The total area or areas of all signs within the outer edges of the sign or advertising message. Sign area may be calculated in the following manners:

- A. A single message on a single sign face.



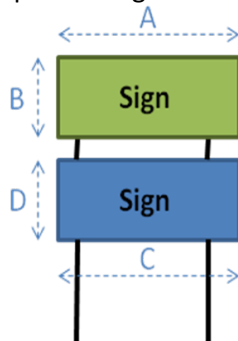
$$\text{Area} = A \times B$$

- B. Multiple messages on a single sign face:



$$\text{Area} = A \times B$$

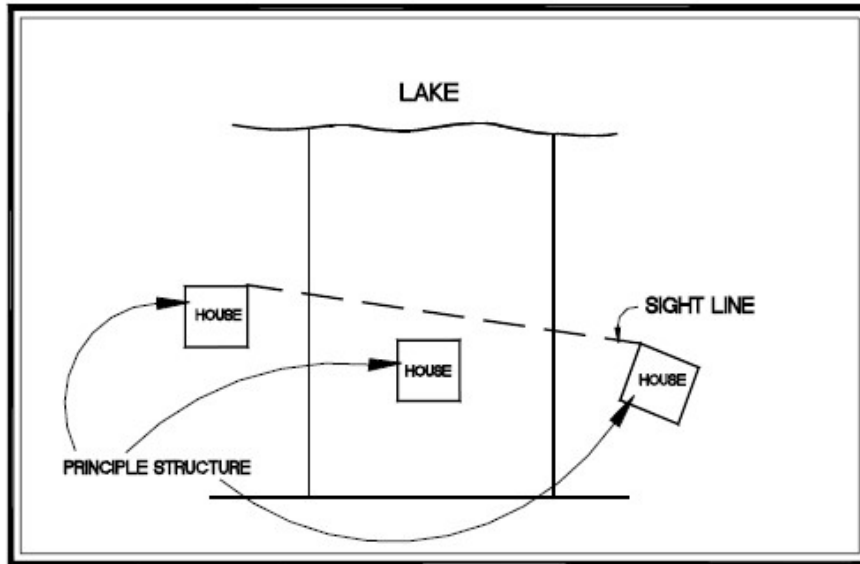
- C. Multiple messages on stacked signs:



$$\text{Area} = (A \times B) + (C \times D)$$

Sight Line. A line across the width of a Lake lot which connects the point closest to the Lake on the edge of the principle structure on either side of the lot or parcel of land upon which proposed structure is to be constructed. See figure below.

Site Line Illustration



Sleeping Quarters. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Special Flood Hazard Area. An area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stand, roadside. A structure for the display and sale of products with no space for customers within the structure itself.

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

Story, first. The lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade for more than 50 percent of the total perimeter, or more than eight (8) feet below grade at any point.

Street Line. A right-of-way line of a street.

Street. A public right-of-way which affords the principal means of access to abutting property. Also may be referred to as road or highway. The term street shall include and apply to any public way except alleys.

1. Arterial Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Brant Lake.
2. Collector Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Brant Lake.
3. Local Street. Any street which is not an arterial street or collector street.

Structure. Anything constructed or erected with affixed location on the ground, or attached to something having fixed location on the ground. Among other things, structures include, but are not limited to, buildings, manufactured homes, walls, fences, billboards, swimming pools, and signs.

Structure, Temporary. Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

Subdivision. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantially Completed. This term refers to the amount of work required to be completed in association with a Building/Use Permit issued by the City. In order to be substantially complete, fifty (50) percent of the project for which a Building/Use Permit has been issued is required to be finished.

Telecommunications Facilities. Means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

1. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or
2. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

Trailer. Means any of the following:

1. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.

2. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
3. **Motor-Home.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. **Camper Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Townhouse. A townhouse is an attached, privately owned single-family dwelling unit which is a part of and adjacent to other similarly owned single-family dwelling units that are connected to but separated from one another by a common party wall having no doors, windows, or other provisions for human passage or visibility. Differing from condominiums, townhouse ownership does include individual ownership of the land. There can also be common elements, such as a central courtyard, that would have shared ownership

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

Use. The purpose for which land or premises or a building thereof is designated, arranged or intended, or for which it is or may be occupied or maintained.

Utility. Any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipal utility.

Variance. A variance is a relaxation of the terms of the zoning 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 of 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 non-conforming in the zoning district or uses in an adjoining zoning district.

Violation. The failure of a structure/use or other development to be fully compliant with this ordinance.

Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Wetlands. Any area where ground water is at or near the surface at least six (6) months of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

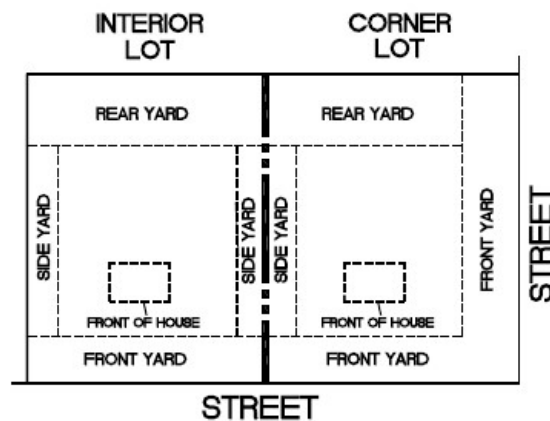
Yard. An open space on the same lot with a building, unoccupied and unobstructed. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and bearing wall of the main building shall be used.

Yard, Front. A yard extending across the front of a lot between the sideyard lines, and being the minimum horizontal distance between the road right-of-way line and the main bearing wall of the main building or any projections thereof other than the projections of the usual steps, unenclosed balconies or open porch. There shall be a front yard on each street which a lot abuts regardless of zoning district. (See Front, Side, and Rear Yard Illustration Below)

Yard, Rear. Any yard extending across the rear of a lot measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or bearing wall or any projections other than steps, unenclosed porches, or unenclosed balconies. On corner lots the rear yard may be to the rear of either street, provided that the minimum rear yard depth requirement shall be calculated on the longest average lot dimension. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. (See Front, Side, and Rear Yard Illustration Below)

Yard, Side. A yard between the main building and the adjacent side line of the lot being the minimum horizontal distance between the bearing wall of the building and the side yard line, and extending from the front yard lot line to the rear yard lot line. (See Front, Side, and Rear Yard Illustration Below)

Front, Rear and Side Yard Illustration



Zoning District. A section or sections of the City for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Zoning Official. The individual(s) appointed by the City Council and designated to administer and enforce the zoning ordinance.