

CHAPTER 13 – DESIGNATING LEGAL BOUNDARIES

EXTRA-TERRITORIAL DISTRICT

ARTICLE 1 - DEFINITIONS AND GENERAL PROVISIONS

TABLE OF CONTENTS

SECTIONS:

Sections 13-1-101 to 13-1-114, inclusive. Definitions and general provisions.

Section 13-1-101. Designating the legal boundaries and the three mile extra-territorial joint jurisdiction limits of the City of Pierre and Hughes County, South Dakota.

Section 13-1-102. Definitions.

Section 13-1-103. Adoption of official zoning map and descriptions - custody of and maintenance by city engineer and Hughes County director of equalization.

Section 13-1-104. Establishment, designation and requirements of zoning lots.

Section 13-1-105. Buildings, structures and land conforming to requirements of ordinance.

Section 13-1-106. Open space and other area conforming to requirements of ordinance.

Section 13-1-107. Interpretation of ordinance - conflict with other rights.

Section 13-1-108. Interpretation of ordinance - conflict with other laws.

Section 13-1-109. Interpretation of ordinance - certain uses prohibited.

Section 13-1-110. Application of ordinance to non-conforming uses.

Section 13-1-111. Administration and enforcement of ordinance - building permits - powers and duties of zoning administrator and board of adjustment.

Section 13-1-112. Inspections by zoning administrator.

Section 13-1-113. Procedures for amending, changing, modifying or repealing portions of zoning map.

Section 13-1-114. Penalty Provisions.

Section 13-1-115 to 199, inclusive. Reserved

Sections 13-1-101 to 114, inclusive. Definitions and General provisions.

Section 13-1-101 Designating the legal boundaries and extra- territorial joint jurisdiction limits of the City of Pierre and Hughes County, South Dakota.

The following are the boundaries and the extra-territorial joint jurisdiction limits of the City of Pierre and Hughes County, South Dakota, as laid out and established.

Commencing at the intersection of the north line of Section 19-111-79 and the easterly bank of the Missouri River; thence east along the north line of Sections 19-111-79 and 20-111-79 to the west line of the E 1/2, E 1/2, Section 17-111-79; thence north along the west line of the E 1/2, E 1/2, E 1/2, Section 17-111-79 to the north line of Section 17-111-79; thence east along the north lines of Sections 17-111-79 and 16-111-79 to the east line of the W 1/2, W 1/2, W 1/2, Section 16-111-79; thence south on the east line of the W 1/2, W 1/2, W 1/2, Section 16-111-79 to the north line of Section 21-111-79; thence east along the north line of Sections 21-111-79, 22-111-79, 23-111-79, 24-111-79, and 19-111-78 to the east line of Section 19-111-78; thence south along the east line of Sections 19-111-78, 30-111-78, 31-111-78, 6-110-78, and 7-110-78 to a point 600' north of the northerly right of way line of South Dakota Highway 34; thence easterly along a line parallel to the northerly right of way line of South Dakota Highway 34 to the east line of Section 8-110-78; thence southerly to the northerly bank of the Missouri River; thence westerly along the northerly bank of the Missouri River to the west line of the E 1/2, SE 1/4, Section 11-110-79; thence north along the west line of the E 1/2, SE 1/4, Section 11-110-79 to the south property line of Lot 13, Fairway Subdivision, thence east along the south property line of Lot 13, Fairway Subdivision to the east right of way line of Fairway Drive; thence north along the east right of way line of Fairway Drive to the south property line of Lot 14, Fairway Subdivision; thence east along the south property line of Lot 14, Fairway Subdivision, to the east property line of Fairway Subdivision; thence north along the east property line of Fairway Subdivision to the north property line of Lot 25, Fairway Subdivision; thence northwesterly along the north property lines of Lots 1 and 25, Fairway Subdivision, and Lot 9, Hillsvieview Subdivision, to the east property line of Lot 2, Hillsvieview Subdivision; thence north along the east property line of Lots 1 and 2, Hillsvieview Subdivision, to the northerly property line of Lot 1, Hillsvieview Subdivision; thence northwesterly along the northerly property line of Lot 1, Hillsvieview Subdivision to the north-south centerline of Section 2-110-79; thence north along the north-south centerline of Sections 2-110-79 to the northerly Right of Way line of South Dakota Highway 34; thence easterly along the northerly Right of Way line of South Dakota Highway 34 to the east line of Lot 3 of Outlot A located in Section 2-110-79; thence north along the east line of Lot 3 of Outlot A located in Section 2-110-79 231.3 feet; thence west 319.2 feet; thence north 50 feet; thence west 105.4 feet to the east line of Lot 1 of Outlot A located in Section 2-110-79; thence north along the east line of Lot 1 of Outlot A to the north line of Lot 1 of Outlot A located in Section 2-110-79; thence west along the north line of Lot 1 of Outlot A and the north line of Lot 1 of Outlot A extended located in Section 2-110-79 to the north-south centerline of Section 2-110-79; thence north along the north-south centerline of Sections 2-110-79, and 35-111-79 to the northwest corner of the SE 1/4, Section 35-111-79; thence easterly along the north line of the SE 1/4, Section 35-111-79 to the west line of the NE 1/4, SE 1/4 of Section 35-111-79; thence south along the west line of the NE 1/4, SE 1/4, Section 35-111-79 to the south line of the NE 1/4, SE 1/4, Section 35-111-79; thence east along the south line of the NE 1/4, SE 1/4, Section 35-111-79 to the west line of Section 36-111-79; thence south along the west line of

Section 36-111-79 to the north line of Section 1-110-79; thence east along the north line of Section 1-110-79 to the west line of the NE 1/4, NW 1/4, NW 1/4, Section 1-110-79; thence south along the west line of the NE 1/4, NW 1/4, Section 1-110-79 to the south line of the N 1/2, NE 1/4, Section 1-110-79; thence east along the south line of the N 1/2, NW 1/4, and the N 1/2, NE 1/4, Section 1-110-79 to the east line of Section 1-110-79; thence north along the east line of Sections 1-110-79 and 36-111-79 to the south line of Section 25-111-79; thence west along the south line of Section 25-111-79 to the west line of the E 1/2, E 1/2, Section 25-111-79; thence north along the west line of the E 1/2, E 1/2, Section 25-111-79 to the north line of the S 1/2, NE 1/4, SE 1/4, Section 25-111-79; thence east along the north line of the S 1/2, NE 1/4, SE 1/4, Section 25-111-79 to the east line of Section 25-111-79; thence north along the east line of Section 25-111-79 to the north line of the S 1/2, N 1/2, Section 25-111-79, thence west along the north line of the S 1/2, N 1/2, Section 25-111-79 to the east line of the SW 1/4, NW 1/4, Section 25-111-79; thence south along the east line of the SW 1/4, NW 1/4, Section 25-111-79 to the north line of the S 1/2, S 1/2, N 1/2, Section 25-111-79; thence west along the north line of the S 1/2, S 1/2, N 1/2 of Sections 25-111-79 and 26-111-79 to the north-south centerline of Section 26-111-79; thence north along the north-south centerline of Section 26-111-79 to the north line of Section 26-111-79; thence west along the north line of Sections 26-111-79 and 27-111-79 to the north-south centerline of Section 22-111-79; thence north to the north line of the south 140 feet of the NE 1/4, SE 1/4, SW 1/4, Section 22-111-79; thence west to the northwest corner of the south 140 feet of the NE 1/4, SE 1/4, SW 1/4, Section 22-111-79; thence south to the north corner of Lot A, W 1/2, SE 1/4, SW 1/4, Section 22-111-79; thence southwesterly 30 feet to the westerly corner of Lot A, W 1/2, SE 1/4, SW 1/4, Section 22-111-79; thence southeasterly along the southwest side of Lot A, W 1/2, SE 1/4, SW 1/4, Section 22-111-79 to the north line of the SW 1/4 SE 1/4, SW 1/4, Section 22-111-79; thence west along the north line of the SW 1/4, SE 1/4, SW 1/4, Section 22-111-79 to the west line of the SW 1/4, SE 1/4, SW 1/4, Section 22-111-79; thence south to the north line of Section 27-111-79; thence west along the north line of Sections 27-111-79; 28-111-79; 29-111-79 and 30-111-79, to the easterly bank of the Missouri River; thence northerly along the easterly bank of the Missouri River to the place of beginning.

Source: Ord. No. 1138, 1984; Ord. No. 1201, 1987.

Section 13-1-102 Definitions.

For the purpose of this Section certain words and terms used herein shall be defined and interpreted as follows:

All words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory and not directory. The word "used" shall be deemed also to include "designed, intended, or arranged to be used."

1. "**Agricultural Building**" is a building located on agricultural property and used to shelter farm implements, hay, grain, poultry, livestock, or other farm produce, in which there is no human habitation, and which is not used by the public.

2. "**Airport**" is any area of land which is used, or intended for the landing and take-off of

aircraft, and any appurtenant areas which are used or intended for use as right-of-way, including taxi ways, aircraft storage and tie down areas, hangars and other related buildings and open spaces.

3. "**Alley**" is a narrow service way providing a secondary means of access to abutting properties.

4. "**Alter or Alteration**" is any change, addition or modification in construction or occupancy.

5. "**Apartment**" shall mean a dwelling unit as defined in this ordinance.

6. "**Apartment House**" is any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

7. "**Auto Wrecking**" is the collecting, burning out, dismantling or wrecking of used motor vehicles, wheeled or track laying equipment, or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles, wheeled or trailers or their parts. The dismantling and rebuilding other than custom repair, of more than one motor vehicle, piece of wheeled or track laying equipment, or trailer at a time even though not for profit or a principal use of a parcel of land shall be defined as auto wrecking. The storage of a partially dismantled motor vehicle, piece of wheeled or track laying equipment or trailer shall be considered auto wrecking.

8. "**Basement**" is that portion of a building between floor and ceiling, which is partly below and partly above grade.

9. "**Billboard**" is any structure or portion thereof, situated on private premises, on which lettered, figured or pictorial matter is displayed for advertising purposes, except the name and occupation of the user of the premises, the nature of the business conducted on the premises or the products primarily sold or manufactured on the premises and having an area of 100 square feet or more. Any signboard carrying a message expected in this definition which also carries extraneous advertising of 100 square feet or more shall be considered a billboard. This definition shall not include any board, sign or surface used to display any official notices issued by a court or public duty, or bulletin boards used to display announcement of meetings to be held on the premises on which such bulletin boards are located, nor shall it include a real estate sign advertising for sale or rent the property upon which it stands when such sign does not exceed 100 square feet.

10. "**Block**" means an area of land within an addition or subdivision that is entirely bounded by streets, streets and the exterior boundary or boundaries of the addition or subdivision, railroad rights-of-way, or a combination of the above with a river or lake.

11. "**Board or Board of Adjustment**" is the joint board of adjustment of the City of Pierre and the County of Hughes, South Dakota.

12. **"Building"** is any structure for the support, shelter, enclosure of persons, animals, chattels, or property of any kind.
13. **"Building, Accessory"** is any subordinate building or structure, the use of which is incidental to the principal building on the same lot, including, but not limited to:
- A. Private Garages, Car Ports, Sheds and Agricultural Buildings; and,
 - B. Tanks and Towers.
14. **"Building, Existing"** is a building erected prior to the adoption of this chapter or one for which a legal building permit has been issued.
15. **"Building, Principal"** is a building in which is conducted the primary use of the site on which it is situated. In any residential district any dwelling shall be deemed to be the principal building of the site on which it is located.
16. **"Cannabis (or Marijuana)"** all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumpling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant cannabis sativa L. (hemp) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.
17. **"Cannabis Cultivation Facility"** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.
18. **"Cannabis Dispensary"** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.
19. **"Cannabis Establishment"** a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary as those terms are defined in SDCL 34-20G-1.
20. **"Cannabis Product Manufacturing Facility"** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.
21. **"Cannabis Products"** any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans.

The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

22. "**Cannabis Testing Facility**" in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

23. "**Certificate of Occupancy**" is a permit issued by the Zoning Administrator whereby the building permittee affirms that the use of the building or land in question is in conformity with this ordinance or that there has been a legal variance therefrom as provided by said ordinance.

24. "City Commission" is the Pierre City Commission.

25. "**Clinic, Medical**" is a building or portion of a building containing the offices and associated facilities of one or more practitioners providing medical, dental, psychiatric, osteopathic, chiropractor, physical therapy or similar services for out-patients only, with or without share or common spaces and equipment. A common area pharmacy or drug dispensary available to persons other than patients being treated therein or making charges separate from bills for professional services of said practitioners shall not be considered as a medical clinic use.

26. "**Club**" shall include clubhouse and shall mean a voluntary association of persons organized for cultural, recreational, fraternal, civic, charitable or similar purpose, but shall not include an organization or premises, the chief activity of which is a service or activity customarily carried on as a business even though it may be chartered and named for purposes herein defining a club.

27. "**Commercial Use**" is the use of any land or building designed for commercial purposes, which shall include the use of land or buildings used for retail sales and offices.

28. "**Commission, Planning**" is the joint Hughes County - City of Pierre Planning Commission.

29. "**Conditional Use**" is a use which is not allowed in the district as a matter of right, but which is permitted upon findings of the City Commission that under the particular circumstances present, such use is in harmony with the principal permitted uses of the district. Allowable conditional uses are specifically listed under the district regulations. Uses not so listed shall not be allowed as conditional uses but may be allowed as a special use.

30. "**Country Club**" for the purpose of this ordinance shall include golf course, par-3 golf courses, swimming pools, tennis clubs and neighborhood clubhouses any and each of which shall be located on a site of not less than one acre and open only to membership subscribing for the use of all facilities for a term of not less than one year and members' non-paying guests. Sleeping facilities other than quarters for one caretaker or manager and his family shall be prohibited. Clubs operated exclusively as restaurants, cocktail lounges, card rooms, beer taverns, bowling alleys, pool and billiard parlors and similar activities normally carried on as business shall be excluded from the definition of a country club. Nothing herein shall be construed to limit the method of operation of such facilities enumerated in this definition when owned or operated by a governmental agency.

31. "**County Commission**" is the Hughes County Commission.
32. "**Court**" is a space, open and unobstructed to the sky, located at or above grade level on a lot and bound on three or more sides by walls or a building.
33. "**Coverage**" is the percentage of lot area covered by buildings.
34. "**Drive-in**" may be used as noun or adjective and shall refer to a business which is designed to serve patrons while they are reposed in vehicles or by means of service windows with the intent that products may be consumed in automobiles on the premises.
35. "**Dwelling**" is a building or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, multi-family dwellings and group dwellings; provided however that the following are not dwellings:
- a. Hotels, motels, tourist courts and cabins;
 - b. In a building that contains one or more dwelling unit or lodging rooms in addition to one or more non-residential uses, the portion of such building that is devoted to such residential uses, except when accessory to the residential uses; and,
 - c. Used for the institutional care of people such as hospitals, rest homes, orphanages, and homes for the aged.
36. "**Dwelling - Multiple-Family**" is a building or portion thereof accommodating three or more families living independently of each other.
37. "**Dwelling - Single-Family**" is a building containing one dwelling unit only.
38. "**Dwelling - Two-Family**" is a building containing two dwelling units only.
39. "**Dwelling - Unit**" is one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking, and eating.
40. "**Dwelling - Mobile**" is a vehicle used or so constructed as to permit its being used as a conveyance upon a public street or highway and duly licensable as such, and shall include self-propelled vehicles so designed, constructed, reconstructed, or added to by means, in such manner as will permit the occupancy thereof as a dwelling or sleeping place of one or more persons and supported by wheels, jacks, or similar supports. Transportable dwellings not meeting building code requirements for dwellings shall be treated as mobile dwellings.
41. "**Family**" is an individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

42. "**Farm**" means any parcel of land containing at least ten (10) acres of land together with fields, buildings, farm implements, animals and personnel for the intended purpose of producing crops or raising livestock as a principal source of income for the residents or owner.

43. "**Farmer**" means one whose occupation is farming.

44. "**Farm, Hobby**" means a parcel of land together with fields, buildings, animals and implements, the residents of which may raise crops or livestock primarily for pleasure or a pastime, which does not generate a principal source of income for those residents.

45. "**Farming**" means the occupation of producing crops or raising livestock on a farm.

46. "**Feedlot, Commercial**" means a place where the principal business is the feeding, raising or holding of livestock in a confined area which is not subordinate to the production of crops on the premises. Under normal operating conditions, the livestock held are fattened by feed which is produced off the site.

47. "**Feedlot, Farm**" means a place where there is feeding, raising or holding of livestock in a confined area as a subordinate use to the raising of crops upon the premises. Under normal growing conditions the crops produced upon the premises constitute the main source of feed for the livestock being held.

48. "**Filling Station**" is any area of land, including structures thereon designed or used for the retail sale of motor vehicle fuel.

49. "**Flammable Liquids**" shall mean any liquid having a flash point below 200° F. and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100° F. Flammable liquids shall be divided into three classes as follows:

Class 1. Shall include those having flash points below 20° F.;

Class 2. Shall include those having flash points above 20° F. but at or below 70° F. and,

Class 3. Shall include those having flash points above 70° F.

50. "**Floor Area**" is the area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

51. "**Garage**" is a building or portion thereof in which a self-propelled vehicle contain gasoline, distillate or other volatile, flammable liquid in its tank, is stored, repaired, or kept.

52. "**Garage, Private**" is a building, or portion of a building, not more than twelve hundred square feet (1,200 sq. ft.) in area, designed or used for the storage of personal motor vehicles and

other customary household articles which are owned and used by the occupants of the building to which it is accessory.

53. **"Gas Dispensing Station"** is any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work may be done upon the premises containing a gas dispensing station.

54. **"Golf Course"** as used herein, shall mean standard sized layouts of at least nine holes and shall not include miniature golf courses, par-3 golf courses, pitch and put courses or driving ranges.

55. **"Grade (adjacent Ground Elevation)"** is the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five (5) feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five (5) feet distant from said wall. In case walls are parallel to and within five (5) feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

56. **"Ground Coverage"** is the area of a zoning lot occupied by all buildings expressed as a percentage of the gross area of the zoning lot.

57. **"Home Occupation - General"** is a business occupation or profession carried on within a residential dwelling by the resident thereof; and which shall have the following characteristics:

- a) There shall be no external evidence of the occupation with the exception of one unlighted name plate of not more than one square foot in area attached flat against the building. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- b) There shall be no emission of smoke, dust, odor, fumes, glare, noise, vibration, electrical or electronic disturbance detectable at the zoning lot line.
- c) The activity shall employ only members of the immediate family of the resident of the dwelling.
- d) There shall not be a stock of good on the premises in excess of 30 cubic feet in volume, none of which shall be of a flammable nature.
- e) There shall be no signs, radio, television, newspaper, handbill or similar types of advertising linking the address of the premises with the home occupation.
- f) Said home occupation shall not involve continual visits by the general public.
- g) The above listed characteristics of the at home occupation shall not be construed to restrict the sale of garden produce grown on the premises, provided this exception shall

not extend to allow the operation of a commercial green house or nursery, or the existence of stands or booths for the display of produce grown on the premises.

h) Said occupation may include the caring for not more than 12 children at one time for hire.

i) Room or board for hire, but not for more than 2 persons.

Any business, occupation or profession the operation of which does to meet the aforesaid characteristics shall not be interpreted to be a home operation despite the fact that it may attempt to operate in a residential building.

The conducting of a barber and/or beauty shop, a clinic, a commercial stable, a commercial kennel, a tourist home, a restaurant or a tea room, a convalescent home, a mortuary establishment or any similar use shall not be deemed to be a home occupation.

58. "**Hospital**" is an institution in which sick or injured persons are given medical or surgical care.

59. "**Hotel**" is any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

60. "**Junk or Salvage Yard**" is a place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, or other used materials are bought, sold, exchanged, stored, baled, or cleaned and places or yards for the storage of salvaged metal, materials and equipment, but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks in operable condition, boats, or trailers in operable condition, salvaged machinery in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

61. "**Lot**" is a zoning lot unless the context shall clearly indicate a lot of record, in which case a "lot" is a lot of record.

62. "**Lot, Corner**" is a zoning lot situated at the intersection of two streets, or bounded on two or more adjacent sides by street right-of-way lines or in the case of curved right-of-way lines, when the extension of tangents at the side lot lines yields an internal angle which does not exceed 135 degrees.

63. "**Lot, Interior**" is a zoning lot other than a corner lot.

64. "**Lot, Depth of**" is the mean horizontal distance between the front and rear lot lines.

65. "**Lot Line**" is a boundary of zoning lot. Lot line is synonymous with property line.

66. **"Lot of Record"** is land designated as a separate and distinct parcel in a subdivision, the plat of which has been recorded in the office of the county register of deeds of Hughes County, South Dakota, parcel of land, the deed to which was recorded in the office of said recorder prior to the adoption of this ordinance.

67. **"Lot Width"** is the distance between side lot lines measured at the rear of the required front yard on a line parallel with a line tangent to the street right-of-way line.

68. **"Manufacturing/Processing, Light"** is those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial or industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

69. **"Minor Repair - Automobile"** is the replacement of minor assemblies or parts and tune up of automobiles, or trucks of less than 15,000 pounds gross license weight, but not including body and fender work, painting, engine overhaul or similar type of work.

70. **"Mobile Home"** is a mobile dwelling.

71. **"Mobile Home Park"** is a track of land that is used, designed, maintained, or held out for rent to accommodate one or more mobile homes. Mobile homes located in a mobile home park are used to provide living and sleeping accommodations, a mobile home park does not include an automobile or mobile home sales lot on which unoccupied mobile homes are parked for inspection or sale. The term mobile home shall include mobile dwelling.

72. **"Motel"** is a group of attached or detached living units with individual toilet facilities operated for transient guests and so constructed that guests' automobiles may be parked at or near the living unit.

73. **"Natural Production Use"** is a production use which shall be directly dependent upon the natural resources of the area; such as gravel pits, rock quarry, and areas containing natural gas.

74. **"Non-confirming Building"** is a building or structure or portion thereof, lawfully existing at the time this ordinance or an amendment thereto becomes effective, which does not meet the bulk, height, yard, parking, loading or other requirements of this ordinance or any amendment thereto.

75. **"Non-conforming Uses"** is a use which lawfully occupies a building or land at the time this ordinance or an amendment thereto becomes effective but does not meet the requirements of this ordinance or any amendment thereto.

76. **"Occupancy"** is the purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

77. **"Open Space"** is all area including off-street parking spaces not covered by buildings or structures.

78. **"Parking Space Off-Street"** is an off street space available for the parking of one motor vehicle and having an area of not less than two hundred (200) square feet exclusive of driveways and having direct access to a street or alley.

79. **"Personal Health Service"** is an establishment primarily engaged in providing health services, including, but not limited to, medical, dental, chiropractic, ophthalmology, optometry and audiology.

80. **"Personal Service Store"** is an establishment engaged in providing services involving the care of a person or their apparel, including, but not limited to laundry or dry cleaning, garment services, coin-operated laundries, photographic and art studios, beauty shops, barber shops, shoe repair, reducing salons, health clubs, clothing rental, tailor and dressmaker.

81. **"Principal Permitted Use"** is that use of a zoning lot which is among the uses allowed as a matter of right as the exclusive use of a lot under the zoning classification.

82. **"Public Utility Facility"** is telephone, electric and cable television lines, poles and equipment; water, gas and sewer pipes and valves, lift stations, telephone exchanges and repeaters and all other facilities and equipment necessary for conducting a service by a government, public utility or cable television franchise.

83. **"Repair"** is the reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "Repair" or "Repairs" shall not apply to any change of construction.

84. **"Residential Use"** is use of land or buildings designed for residential purpose which shall include such land or buildings used for one or two-family residency, apartment houses and multiple family dwellings.

85. **"Retail Store"** is an establishment engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating and drinking establishments, repair shops, indoor amusement, copying services, health, professional, personal, educational, and social services, and other miscellaneous services.

86. **"Rooming House or Lodging House"** is any building or portion thereof, containing not more than five guest rooms which are used by not more than five guests where rent is paid in money, goods, labor or otherwise. A lodging house shall comply with all the requirements of this ordinance for dwellings.

87. **"Setback"** is the minimum horizontal distance between the property line and front line of a building.

88. "**Sign**" is any device which directs attention to business, commodity, service or entertainment but not including any flag, badge, or insignia or any government agency, or any civic, charitable, religious, patriotic or similar organizations.

89. "**Stable - Private**" is an accessory building in which all of the animals housed are the property of the owner or lessee or of his immediate family.

90. "**Stable - Public**" is a building in which any animals are kept for remuneration, hire or sale.

91. "**Story**" is 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, cellar or unused underfloor space is more than six feet (6 ft.) above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve feet (12 ft.) above grade as defined herein at any point, such basement, cellar or unused underfloor space shall be considered as a story.

92. "**Story - Half**" is a story under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the finished floor of such story.

93. "**Street**" is any thoroughfare of public space not less than thirty feet (30 ft.) in width which has been dedicated or deeded to the public for public use.

94. "**Structure**" is that which is built or constructed, an edifice or building or any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

95. "**Structural Alteration**" is any change in the structural members of a building, such as walls, columns, beams or girders. Vehicles duly licensed for operation upon public streets or highways shall not be considered structures.

96. "**Use**" is the purpose or purposes for which land or building is designed, arranged, or intended, or to which said land or building is occupied, maintained or leased.

97. "**Use - Accessory**" is a use customarily incidental to a principal permitted use or building and located on the same zoning lot with such principal use or building.

98. "**Use - Specifically Excluded**" is a use of land or a structure which is excluded from a district by the operation of other regulations of the district, and which is specifically enumerated as excluded for purposes of clarity of intent and ease of reference.

99. "**Yard**" is an open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this ordinance on the lot on which a building is situated.

100. "**Yard - Front**" is an open space extending the full width of the zoning lot, between the main building and the front line, unoccupied and unobstructed by buildings or structures in excess of 30 inches in height except as provided herein, the depth of which shall be measured as the least distance between the front lot line and the front of such main building.

101. "**Yard - Rear**" is an open space extending the full width of the zoning lot between the main building and the rear lot line, unoccupied and unobstructed by buildings or structures in excess of 30 inches in height except as provided herein, the depth of which shall be measured as the least distance between the rear lot line and the rear of such main buildings.

102. "**Yard - Side**" is an open space extending from the front yard to the rear yard, between the main building and the side lot line, unoccupied and unobstructed by buildings or structures in excess of 30 inches in height, except as provided herein, the depth of which shall be measured as the least distance between the side lot line and the side of such main buildings.

103. "**Zoning Administrator**" is the officer charged with the administration and enforcement of this ordinance or his regularly authorized deputy.

104. "**Zoning, Lot**" is a single tract of land located within a single block, which at the time of filing for a building permit or a certificate of occupancy, 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 permit or certificate of occupancy are issued and including such area of land as may be required by the provisions of this ordinance for such use, building or structure.

Source: Ord. 1440, 1999; Ord. 1442, 1999; Ord. 1444, 1999; Ord. 1835, 2021

Section 13-1-103 Adoption of official zoning map and descriptions custody of and maintenance by city engineer and Hughes County director of equalization.

The location, size, shape and boundaries of the zones to which the provisions of the text of this chapter are applicable, shall be indicated on the official zoning map in the Pierre city engineer's office and the Hughes county director of equalization office and by descriptions incorporated herein and by this reference made a part hereof and said map, after being adopted by reference as a part of this ordinance, and so certified by the city auditor, county auditor, and the Hughes county director of equalization and said map shall be the official zoning map, for the purpose of enforcement of this ordinance. In case of doubt or dispute, the description of said zones shall govern.

Section 13-1-104 Establishment, designation and requirements of zoning lots.

In order to facilitate the enforcement of this ordinance the device of zoning lots as defined herein shall be used. A parcel of land shall be designated and suitably recorded by the Zoning Administrator as forming the site of each new building, structure or use of land or the site of any building structure or use of land designated for any alteration or modification requiring a building permit or certificate of

occupancy. Said parcel shall conform in dimensions and area to the provisions of this ordinance. A zoning lot may or may not coincide with platted lot lines. Each zoning lot shall front on a public street of not less than 25 feet in width for a distance of not less than 20 feet or shall have a permanent access to such a public street by an unobstructed easement of not less than 16 feet in width.

Section 13-1-105 Buildings, structures and land conforming to requirements of ordinance.

No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

Section 13-1-106 Open space and other area conforming to requirements of ordinance.

No open space surrounding any building shall be encroached or reduced in any manner, except in conformity with the yard, lot area, and building location regulations herein designated for the district which such building or open space is located. No yard, off-street parking space, off-street loading space, or other space surrounding any building for the purpose of complying with the provision of this ordinance except as otherwise specified herein, shall be considered as providing a yard or open space for any other building, and no yard or other open space on one platted lot shall be considered as the required open space on another platted lot unless the other platted lot is in the same ownership and is declared as a single zoning lot in applying for a building permit, and provided no land so considered has previously been considered as part of a required building site or zoning lot in the application for a building permit for an existing building. The required yard or open space for any use, building or structure shall be contained in the same zone as required for the principal use, its buildings or accessory buildings.

No lot, yard, off-street loading space, off-street parking space or other open space required for an existing building by the regulations contained herein shall be hereafter reduced in dimension or area below the minimum requirements set forth herein for said building or structure, except to provide for the extension, establishment of widening of a public street or highway.

Section 13-1-107 Interpretation of ordinance - conflict with other rights.

It is not the intention of this ordinance to defeat the purposes of any contract, deed restriction or protective covenant when such instrument is inconsistent with the ordinance or contains more restrictive requirements. In the event this ordinance conflicts with other provisions of this code, ordinances, rules and regulations adopted pursuant to law, or state or federal law, then the more strict provisions shall apply.

Areas which are included within the boundaries of an urban renewal plan or other area plan which has been officially adopted and approved by the council and a contract with the federal or other government consummated as a consequence thereof, shall not be the subject of any zoning change which will defeat the purposes of such contract.

Section 13-1-108 Interpretation of ordinance - conflict with other laws.

In the interpreting or applying the provisions of this zoning ordinance, the minimum requirements adopted for the promotion of the public health, morals, safety, convenience, comfort, and general welfare shall be strictly conformed to. Wherever the requirements of this ordinance are in conflict with the requirements of any other local statute, ordinance, or regulation, the most restrictive, or that imposing the higher standards, shall govern.

Section 13-1-109 Interpretation of ordinance - certain uses prohibited.

Any use that is not specifically permitted in a district as a principal use, an accessory use or a conditional use, is hereby specifically prohibited. In the regulations for some zones specific excluded uses are enumerated for clarification of intent, but such lists of excluded uses are not to be interpreted as including all excluded uses.

Section 13-1-110 Application of ordinance to non-conforming uses.

The lawful use of any building or premises existing at the time of the effective date of this chapter shall be allowed to continue although the use does not conform to the regulations of the ordinance in the respective district, and such building may be reconstructed or structurally altered and the non-conforming use changed subject to the following regulations:

1. Any structure or part thereof that is declared unsafe, may be restored to a safe condition.
2. Any non-conforming building may not be reconstructed or structurally altered during its life to exceed a cost of fifty percent (50%) of the assessed value of the building unless the building is changed to conform with the regulations of the district.
3. There shall be no extension of any building for a non-conforming use, but an extension to said building may be allowed for a conforming use.
4. Any building damaged by fire or other causes to the extent of fifty percent (50%) of its assessed value shall not be repaired or rebuilt unless it is in conformity with the regulations for the respective district.
5. Upon the discontinuance of a non-conforming use for a period of one year the use shall not be re-established. Any future use shall be in conformity with the regulations of the respective district.
6. No non-conforming use once changed to a conforming use shall be allowed to revert back to a non-conforming use.
7. No non-forming use shall be extended to replace a conforming use.

8. If the boundaries of a district shall be changed so as to transfer an area from one district to another district with different regulations, the above provisions shall apply to any non-conforming uses existing in the district to which the area is transferred.

Section 13-1-111 Administration and enforcement of ordinance - building permits - powers and duties of zoning administrator and board of adjustment.

A. Administration and Enforcement

This zoning ordinance, except as provide in this ordinance, shall be administered and enforced by the zoning administrator. An appeal concerning the decision of the zoning administrator may be made to the Board of Adjustment as herein provided.

B. Building Permits

1. There shall be no building or structure erected, added to or structurally altered unless there has been a permit issued by the zoning administrator. Except upon a written request from the Board of Adjustment, no such building permit or certificate of occupancy shall be issued for any building where said construction, addition or alteration or use thereof will not conform to the regulations of this ordinance.

2. With all applications for building permits there shall be submitted one copy of a layout or plot plan, drawn to scale, showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and any other information necessary to determine and provide for the enforcement of this zoning ordinance. A careful record of these applications and plat plans shall be kept in the office of the zoning administrator.

C. The Zoning Administrator shall be appointed by the City Commission.

D. Permit Fees shall be as set by the City Commission.

E. Board of Adjustment

A. Creation of Organization

The Board of Adjustment is hereby established. The Board shall consist of five (5) members. The Board shall appoint one of its members as chairman, appoint a secretary and shall prescribe the rules for the conduct of its affairs. Each member shall receive annual compensation in the sum of \$100.00. The appointment of the Board of Adjustment, the number of members, their terms in office, and their power and authority shall be as set out in Section 45.2607 of the South Dakota Code of 1939 and all acts mandatory thereto.

B. Powers and Duties.

The powers and duties of the Board of Adjustment as prescribed by laws and this ordinance are specified as follows:

1. Interpretation.

To hear and decide all appeals from the decision of the zoning administrator involving the interpretation of any regulation of this ordinance.

2. Special Permits.

To issue special permits for any of the uses which require such permits by the Board of Adjustment; or for the extension of use, as it existed at the time this ordinance went into effect, into a contiguous or more restricted district, but not for any other purpose or use. A special permit shall not be granted unless the Board finds that the use for which the permit is sought will not be injurious to the neighborhood or detrimental to the public welfare.

F. Variances.

To vary or adapt any regulation of this ordinance when any such regulation results in practical difficulty or unnecessary hardship that would prohibit the owner from the reasonable use of the land or building involved, but in no other case.

No variance of any regulation shall be granted by the Board unless they find:

- a. That there is proof of the hardship, and the conditions and circumstances are peculiar to such land or buildings, and that these conditions and circumstances do not generally apply to the neighborhood.
- b. That the variance granted by the Board is the minimum variance possible to accomplish the purpose of providing for the reasonable use of the land or building.
- c. That the granting of the variance does not change the essential character of the neighborhood and shall be in accordance with the general purpose and intent of this ordinance.
- d. A variance may be granted in cases where this ordinance refers it to the Board of Adjustment directly.

G. Procedure.

The Board of Adjustment shall act in strict compliance with the procedure prescribed by law and this zoning ordinance. The appeals and application made to the Board shall be made in writing on forms prescribed by the Board. Each appeal or application shall state the interpretation that is claimed, the use for which the permit is sought, or the details of the variance applied for and the reasons why the variance should be granted.

Section 13-1-112 Inspections by zoning administrator.

Upon completion of the job, the zoning administrator may make a final inspection to determine conformity to this ordinance.

Section 13-1-113 Procedures for amending, changing, modifying or repealing portions of zoning ordinance.

Amendments and Changes.

Procedures.

1. The City Commission and County Commission may from time amend, change, modify or repeal any portion of the zoning ordinance.
2. Every proposed amendment or change shall be referred to the joint city of Pierre - county of Hughes Planning Commission for a report thereon.

Section 13-1-114 Penalty Provisions.

A violation of this ordinance shall be considered a misdemeanor punishable by a fine not exceeding One Hundred Dollars (\$100.00). Each day that the violation continues to exist shall constitute a separate offense.

Section 13-1-115 to 199, inclusive. Reserved