

## **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 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 are 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 Intent.**

Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by the addition of other uses, or a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance.

### **Section 2.02.02 Repairs and Maintenance**

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to 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 2.02.03 Uses and Structures.**

A lawful use or structure existing at the time this ordinance is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

1. 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:

- A. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.
  - B. 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 less than the minimum required yards for the district in which they are located. Exception: The Board of Adjustment may allow buildings with side yard setbacks less than required herein to have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building and the addition shall further conform to all ordinance requirements.
  - C. 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.
- 2. Whenever a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.
  - 3. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six (6) months after such casualty and completed within a reasonable time thereafter; however, if the damage caused by such casualty is such as to cause a loss in value exceeding fifty (50) percent of the value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. 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.
  - 4. When a nonconforming use or structure is discontinued for a period of one (1) year, it shall not be continued unless in conformance with the requirements of this ordinance and SDCL 11-6-39.
  - 5. Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this ordinance but shall not be extended outside each structure.
  - 6. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move, or structurally alter a nonconforming use.

7. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the replacement Type I and/or Type II Manufactured Home, then application must first be made to the Board of Adjustment for a Conditional Use Permit.
8. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning and Zoning Commission as set forth elsewhere in this Ordinance.

**Section 2.02.04. Uses Under Conditional Use Provisions Not Non-Conforming Uses.**

Any use which is permitted as a conditional use in a district under the terms of this Ordinance shall not be deemed a non-conforming use in such district but shall without further action be considered a conforming use.

**Section 2.02.05 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 and not of contiguous 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 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 if 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 city-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.03 of these regulations.

The Board of Adjustment may establish additional requirements and standards for uses and structures permitted by Conditional Use Permit in accordance with Section 3.04.02

### **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.

- A     Agricultural District
- R     General Residential District
- PUD   Planned Unit Development District
- C-1    General Commercial District
- I     Industrial District

The following districts shall be designated as zoning overlay districts, imposing special regulations on the properties that fall within these overlay districts without abrogating the requirements imposed by the underlying land use district regulations:

- CB    Central Business Overlay District
- RE    Residential Estate Overlay District
- FP    Floodplain District