

# **2016 REVISED BRANDON ZONING REGULATIONS**

*Prepared by the South Eastern Council of Governments at the direction of the  
Planning Commission and City Council of Brandon, South Dakota*

*Updated with Amendments as of October 25, 2016*

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# 1

## ***GENERAL PROVISIONS***

### ***1.01 Title and Application***

These regulations shall be referred to as the 2016 Revised Zoning Ordinance of the City of Brandon.

### ***1.02 Jurisdiction***

The provisions of this Ordinance shall apply to all territory within the boundaries of the City of Brandon, South Dakota, as established on the Official Zoning Map of the City of Brandon.

### ***1.03 Purpose***

These regulations have been based upon the Brandon Comprehensive Plan adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws. These regulations are designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended:

- \*to lessen congestion in the streets;
- \*to secure safety from fire, panic and other dangers;
- \*to promote health and the general welfare;
- \*to provide adequate light and air;
- \*to prevent overcrowding of land;
- \*to avoid undue concentrations of population; and
- \*to facilitate the adequate provision of transportation, water, sewers, school, parks and other public necessities.

### ***1.04 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.

### ***1.05 Penalties for Violation***

It is unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure, or to use any land in violation of any regulation in this Ordinance. Any person, firm, association or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall be subject to a fine of \$500.00. Any person, firm, association or corporation who violates this Ordinance shall pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum of \$500.00. Upon failure of a person to pay the sum to the office of the City Finance Officer, and upon conviction of a violation of this Section, the person shall be fined \$500.00 plus court costs, which fine shall be collected by the Magistrate Court. The person also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council. Each day such violation continues shall be considered a separate offense.

### ***1.06 Separability Clause***

Should any 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.

### ***1.07 Repeal of Conflicting Ordinances***

All prior ordinances or parts of prior ordinances in conflict with this Ordinance are hereby declared repealed.

### ***1.08 Effective Date***

These regulations shall be in full force and effect from and after their passage, approval, publication and effective date of the 2016 Revised Zoning Ordinance of the City of Brandon, as provided for by South Dakota law.

# 2

## ***DISTRICTS AND BOUNDARIES***

### ***2.01 Districts Designated***

The City is hereby divided into the following districts:

NRC	Flood Plain / Conservation
R-1	Residential - Low Density
R-2	Residential - Medium Density
R-3	Residential - High Density
R-4	Residential - Manufactured Housing
CB	Central Business
GB	General Business
LI	Light Industrial
HI	Heavy Industrial
PD	Planned Development

### ***2.02 Adoption of Official Zoning Map***

The Official Zoning Map for the City of Brandon, on record with the Finance Officer, is hereby adopted by reference and declared to be a part of this Ordinance.

### ***2.03 Changes to Official Zoning Map***

Changes to or replacement of the Official Zoning Map shall require amendment of these regulations by Ordinance, as provided for in 19.01 of these regulations.

### ***2.04 Interpretation of District Boundaries***

Where uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following platted lot lines or city limits shall be interpreted to follow such platted lot lines or city limits;

- B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;
- C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;
- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment, as established in Chapter 18, shall interpret the district boundaries;
- E. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a Conditional Use Permit the extension of the regulations for either portion of the lot into the remaining portion of the lot.

## ***2.05 Annexations***

In all territories which may hereafter be annexed to the City, the zoning districts as they exist in Minnehaha County shall be continued until otherwise changed by Ordinance.

# 3

## ***NRC: NATURAL RESOURCE CONSERVATION DISTRICT***

The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to protect views, to preserve natural settings for wildlife habitats, to add to the aesthetic quality of the community, and to lessen the urban density.

### ***3.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Agriculture</b>	13.02
<b>Farm dwellings, single-family</b>	13.02, 13.04, 13.11, 13.12 Not within identified flood plain area.
<b>Golf course</b>	13.02, 13.04, 13.06 One freestanding sign as allowed within 13.06.
<b>Public park areas</b>	13.02, 13.06
<b>Electrical substation</b>	13.02, 13.12 An opaque screen, six feet in height, shall be located at all setback lines.
<b>Public utility facility</b>	13.02, 13.04, 13.06, 13.12 One freestanding sign as allowed within 13.06.
<b>Cemetery</b>	13.02 At least two acres in size and shall have an adequate road system within cemetery and not within an identified flood plain area. One freestanding sign as allowed within 13.06.
<b>Fence</b>	13.09

<b>Bed and breakfast establishment</b>	13.15 All applicable farm dwelling standards. One freestanding sign as allowed within 13.06.
<b>Accessory use and buildings (i.e. garage, shed)</b>	13.03 (see definition)

### 3.02 Conditional Uses

<u>Conditional Use</u>	<u>Applicable Standards</u>
<b>One additional single-family dwelling or manufactured home</b>	Said dwelling shall be located within the farmstead perimeter. All farm dwelling, single family requirements apply. Not within an identified flood plain area. 20.01
<b>Wireless communication facility on existing support structure</b>	13.10, 20.01 Not within an identified flood plain area.
<b>Municipally owned waste water treatment facility</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Home occupation</b>	13.13, 20.01
<b>Wind energy conversion system</b>	13.02, 13.06, 13.16, 20.01

### 3.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>All Uses</b>	1 acre	150 feet	25 feet	30 feet	30 feet	35 feet

#### EXCEPTIONS

- #1 See Adjustment to Yard Regulations (Chapter 14) and Non-Conforming and Non-Standard Uses (Chapter 15) for specific exceptions.

# 4

## ***R-1: LOW DENSITY RESIDENTIAL DISTRICT***

The purpose of this district is to provide for areas of low residential density. This district provides for single-family detached dwellings, single-family attached dwellings and such supportive community facilities as parks, playgrounds, schools, libraries and churches. It is intended that this district provide protection for those areas existing as or planned for single-family neighborhoods.

### ***4.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Single-family detached dwelling</b>	13.02, 13.04, 13.06, 13.11, 13.12 The footprint of an attached private garage shall not exceed the footprint of the principle dwelling unit. If lot contains a single-family detached dwelling, no other principal building may be present thereon.
<b>Church</b>	13.02, 13.04, 13.12 One freestanding sign as allowed within 13.06.  Where any church is adjacent to property developed for residential use, that church shall provide screening along the boundary of the residential property. Screening shall be installed so as to block direct vision. It shall consist of the following: <ol style="list-style-type: none"><li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li><li>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</li></ol>

	All mechanical or electrical equipment located on the roof of a structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.
<b>Library</b>	All parking lots being 8 feet from all residential properties. 13.02, 13.04, 13.12 One freestanding sign as allowed within 13.06.
<b>School</b>	<p>One of the principle frontages shall abut upon an arterial or collector street. 13.02, 13.04, 13.12 Signage as allowed within 13.06 under CB &amp; GB Districts.</p> <p>Where any school is adjacent to property developed for residential use, that school shall provide screening along the boundary of the residential property. Screening shall be installed so as to block direct vision. It shall consist of the following:</p> <ol style="list-style-type: none"> <li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li> <li>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</li> </ol> <p>All mechanical or electrical equipment located on the roof of a structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.</p>
<b>Neighborhood utility facility</b>	13.02
<b>Electrical substation</b>	An opaque screen, six feet in height, shall be located at all setback lines. 13.12, 13.02

<b>Accessory use and buildings (i.e. garage, shed)</b>	13.03, 13.02 (see definition)
<b>Fence</b>	13.09

*(Amended: Ordinance No. 538, 10-25-2016)*

#### **4.02 Conditional Uses**

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Single-family attached dwelling (up to 2)</b>	13.02, 13.04, 13.06, 13.11, 13.12, 20.01 (this includes town homes and duplexes) The footprint of an attached private garage shall not exceed the footprint of the principle dwelling unit.
<b>Group day care</b>	A safe pickup and drop off area must be provided for the children. All single family standards apply. 20.01
<b>Bed and breakfast establishment</b>	13.15, 20.01 & all single-family detached dwelling standards. One freestanding sign as allowed within 13.06.
<b>Home occupation</b>	13.13, 20.01 and all applicable dwelling standards.
<b>Group home (see definition)</b>	20.01 Structure must be a single housekeeping unit. Applicant must provide copy of state agency license. All single-family detached dwelling standards apply.
<b>Wind energy conversion system</b>	13.02, 13.06, 13.16, 20.01

### 4.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>Single Family Detached</b>	7,500 sq. ft.	80 feet see #1	25 feet see #4	7 feet	25 feet/20 feet on corner lots	35 feet
<b>Single Family Attached (2) 2 lots</b>	5,000 sq. ft.	40 feet per unit	25 feet see #4	0' or 7' on nonparty wall side	25 feet/20 feet on corner lots	35 feet
<b>Single Family Attached (2) 1 lot</b>	10,000 sq. ft.	80 feet	25 feet see #4	7 feet	25 feet/20 feet on corner lots	35 feet
<b>Neighborhood utility facility</b>	3,000 sq. ft.	50 feet	25 feet see #4	15 feet	25 feet/20 feet on corner lots	35 feet
<b>All other uses</b>	7,500 sq. ft.	75 feet	25 feet see #4	15 feet	25 feet/20 feet on corner lots	35 feet

#### **Exceptions**

- #1 A residence may be constructed on a lot-of-record which has a lot width of less than 80 feet.
- #2 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line; however, the minimum lot width at the right-of-way line shall not be less than 65 feet.
- #3 There shall be a required front yard on each street side of a double-frontage lot. There shall be a required front yard on each street side of a corner lot.
- #4 One required front yard may be reduced to 20 feet on corner lots. The street the property is addressed is assigned from the front yard that remains 25 feet.
- #5 See also Adjustment to Yard Regulations (Chapter 14) and Non-Conforming and Non-Standard Uses (Chapter 15) for other specific exceptions.

*(Amended: Ordinance No. 538, 10-25-2016)*

# 5

## ***R-2: MEDIUM DENSITY RESIDENTIAL DISTRICT***

The purpose of this district is to provide for areas of medium residential density. This district provides for single-family detached dwellings, single-family attached dwellings, multiple-family dwellings and such supportive community facilities as parks, playgrounds, schools, libraries and churches.

### ***5.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Single-family detached dwelling</b>	13.02, 13.04, 13.06, 13.11, 13.12 The footprint of an attached private garage shall not exceed the footprint of the principle dwelling unit. If lot contains a single-family detached dwelling, no other principal building may be present thereon.
<b>Single-family attached dwelling (up to 4)</b>	13.02, 13.04, 13.06, 13.11, 13.12 (this includes town homes and duplexes) The footprint of an attached private garage shall not exceed the footprint of the principle dwelling unit.
<b>Church</b>	One of the principle frontages shall abut upon an arterial or collector street 13.02, 13.04, 13.12 One freestanding sign as allowed within 13.06.  Where any church is adjacent to property developed for residential use, that church shall provide screening along the boundary of the residential property. Screening shall be installed so as to block direct vision. It shall consist of the following: <ol style="list-style-type: none"><li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li></ol>

	<p>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</p> <p>All mechanical or electrical equipment located on the roof of a structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.</p>
<b>Library</b>	<p>All parking lots being 8 feet from all residential properties. 13.02, 13.04, 13.06, 13.12</p> <p>One freestanding sign as allowed within 13.06.</p>
<b>Schools</b>	<p>One of the principle frontages shall abut upon an arterial or collector street 13.02, 13.04, 13.09, 13.10</p> <p>Signage as allowed within 13.06 under CB &amp; GB Districts.</p> <p>Where any school is adjacent to property developed for residential use, that school shall provide screening along the boundary of the residential property.</p> <p>Screening shall be installed so as to block direct vision. It shall consist of the following:</p> <ol style="list-style-type: none"> <li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li> <li>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</li> </ol> <p>All mechanical or electrical equipment located on the roof of a structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.</p>
<b>Neighborhood utility facility</b>	13.02

<b>Homeowners' Association (HOA) Maintenance Building</b>	13.02, 13.04, 13.06, 13.12 Each HOA shall be limited to 1 maintenance building. No building shall exceed a maximum sidewall height of 10 feet and 1,000 square feet of floor area. Must be owned by HOAs consisting of at least 11 separate lots within its jurisdiction. Each building must have roofing and siding similar to other principal buildings owned by members of the HOA.
<b>Electrical substation</b>	An opaque screen, six feet in height located at all setback lines 13.12, 13.02
<b>Fence</b>	13.09
<b>Accessory use and buildings (i.e. garage, shed)</b>	13.03 (see definition)

(Amended: Ordinance No. 538, 10-25-2016)

## 5.02 Conditional Uses

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Multiple-Family Dwelling (up to 8 dwelling units)</b>	13.02, 13.04, 13.11, 13.12 One freestanding sign as allowed within 13.06.
<b>Office</b>	13.02, 13.04, 13.05, 13.12
<b>Group day Care</b>	A safe pickup and drop off area must be provided for the children. All applicable dwelling standards apply. 20.01
<b>Group home (see definition)</b>	Structure must be a single housekeeping unit. Applicant must provide copy of state agency license. All single-family detached dwelling standards apply. 13.04, 20.01
<b>Home occupation</b>	13.13, 20.01 and all applicable dwelling standards.
<b>Assisted living facility</b>	Applicant must provide copy of Department of Health license. All multiple dwelling standards apply. One freestanding sign as allowed within 13.06. 13.04, 13.12, 20.01

<b>Nursing home</b>	Applicant must provide copy of Department of Health license. 13.02, 13.04, 13.12, 20.01 One freestanding sign as allowed within 13.06.
<b>Bed and breakfast establishment</b>	13.15 & all single-family detached dwelling standards One freestanding sign as allowed within 13.06. 20.01
<b>Convent/monastery</b>	13.02, 13.04, 13.06, 13.12, & 20.01 One freestanding sign as allowed within 13.06.
<b>Wind energy conversion system</b>	13.02, 13.06, 13.16, 20.01

### 5.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>Multi-family Dwelling</b>	3,000 sq. ft. per unit	75 feet	25 feet see #4	15 feet	25 feet see #5	45 feet
<b>Single Family Detached</b>	7,500 sq. ft.	75 feet see #2	25 feet see #4	7 feet	25 feet	35 feet
<b>Single Family Attached (up to 4)</b>	3,000 sq. ft. per unit	25 feet	25 feet see #4	0' or 10' on nonparty wall side	25 feet	35 feet
<b>Neighborhood utility facility</b>	3,000 sq. ft.	50 feet	25 feet see #4	15 feet	25 feet	35 feet
<b>All other uses</b>	7,500 sq. ft.	75 feet	25 feet see #4	15 feet	25 feet	35 feet

#### Exceptions

- #1 The sideyard will be required to be increased to 10 feet when the building is three stories in height or more.
- #2 A residence may be constructed on a lot-of-record which has a lot width of less than 75 feet.

- #3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #4 One required front yard may be reduced to 20 feet on corner lots. The street the property is addressed is assigned from the front yard that remains 25 feet.
- #5 A side yard of 15 feet and shall be required where a lot is adjacent to or abuts a residential district.
- #6 See also Adjustment to Yard Regulations (Chapter 14) and Non-Conforming and Non-Standard Uses (Chapter 15) for other specific exceptions.

*(Amended: Ordinance No. 538, 10-25-2016)*

# 6

## ***R-3: HIGH DENSITY RESIDENTIAL DISTRICT***

The purpose of this district is to provide for areas of high residential density. This district provides for single-family detached dwellings, single-family attached dwellings, multiple-family dwellings and such supportive community facilities as parks, playgrounds, schools, libraries and churches.

### ***6.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Multiple-Family Dwellings (9 to 36 dwelling units)</b>	13.02, 13.04, 13.11, 13.12 One freestanding sign as allowed within 13.06.
<b>Single-family detached dwellings</b>	13.02, 13.04, 13.06, 13.11, 13.12 The footprint of an attached private garage shall not exceed the footprint of the principle dwelling unit. If lot contains a single-family detached dwelling, no other principal building may be present thereon.
<b>Single-family attached dwellings</b>	13.02, 13.04, 13.06, 13.11, 13.12 (this includes town homes and duplexes) The footprint of an attached private garage shall not exceed the footprint of the principle dwelling unit.
<b>Church</b>	One of the principle frontages shall abut upon an arterial or collector street. 13.02, 13.04, 13.12 One freestanding sign as allowed within 13.06.  Where any church is adjacent to property developed for residential use, that church shall provide screening along the boundary of the residential property. Screening shall be installed so as to block direct vision. It shall

	<p>consist of the following:</p> <ul style="list-style-type: none"> <li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li> <li>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</li> </ul> <p>All mechanical or electrical equipment located on the roof of a structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.</p>
<b>Library</b>	<p>All parking lots being 8 feet from all residential properties. 13.02, 13.04, 13.06, 13.12</p> <p>One freestanding sign as allowed within 13.06.</p>
<b>School</b>	<p>One of the principle frontages shall abut upon an arterial or collector street. 13.02, 13.04, 13.09, 13.10</p> <p>Signage as allowed within 13.06 under CB &amp; GB Districts.</p> <p>Where any school is adjacent to property developed for residential use, that school shall provide screening along the boundary of the residential property.</p> <p>Screening shall be installed so as to block direct vision. It shall consist of the following:</p> <ul style="list-style-type: none"> <li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li> <li>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</li> </ul> <p>All mechanical or electrical equipment located on the roof of a</p>

	structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.
<b>Public park</b>	13.02, 13.06
<b>Neighborhood utility facility</b>	13.02
<b>Homeowners' Association (HOA) Maintenance Building</b>	13.02, 13.04, 13.06, 13.12 Each HOA shall be limited to 1 maintenance building. No building shall exceed a maximum sidewall height of 10 feet and 1,000 square feet of floor area. Must be owned by HOAs consisting of at least 11 separate lots within its jurisdiction. Each building must have roofing and siding similar to other principal buildings owned by members of the HOA.
<b>Electrical substation</b>	An opaque screen, six feet in height located at all setback lines.  13.12, 13.02
<b>Fence</b>	13.09
<b>Accessory use and buildings (i.e. garage, shed)</b>	13.03 (see definition)

*(Amended: Ordinance No. 538, 10-25-2016)*

## **6.02 Conditional Uses**

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Multiple-Family Dwellings (36 or more dwelling units)</b>	13.02, 13.04, 13.11, 13.12, 20.01 One freestanding sign as allowed within 13.06.
<b>Office</b>	13.02, 13.04, 13.05, 13.12, 20.01

<b>Group day Care</b>	A safe pickup and drop off area must be provided for the children. All applicable dwelling standards apply. 20.01
<b>Group home (see definition)</b>	Structure must be a single housekeeping unit. Applicant must provide copy of state agency license. All single-family detached dwelling standards apply. 13.04, 20.01
<b>Home occupation</b>	13.13, 20.01 and all applicable dwelling standards.
<b>Assisted living facility</b>	Applicant must provide copy of Department of Health license. All multiple dwelling standards apply. One freestanding sign as allowed within 13.06. 13.04, 13.12, 20.01
<b>Nursing home</b>	Applicant must provide copy of Department of Health license. 13.02, 13.04, 13.12, 20.01 One freestanding sign as allowed within 13.06.
<b>Bed and breakfast establishment</b>	13.15 & all single-family detached dwelling standards. One freestanding sign as allowed within 13.06. 20.01
<b>Convent/monastery</b>	13.02, 13.04, 13.06, 13.12, & 20.01 One freestanding sign as allowed within 13.06.
<b>Wind energy conversion system</b>	13.02, 13.06, 13.16, 20.01

### ***6.03 Lot and Yard Regulations***

All measurements shall be taken from the lot line to the building line (see definitions).

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>Multi-family Dwelling (over 8 dwelling units)</b>	3,000 sq. ft. per unit	75 feet	25 feet see #4	15 feet	25 feet see #5	45 feet

<b>Single Family Detached</b>	7,500 sq. ft.	75 feet see #2	25 feet see #4	7 feet	25 feet	35 feet
<b>Single Family Attached</b>	3,000 sq. ft.	25 feet	25 feet see #4	0' or 10' on nonparty wall side	25 feet	35 feet
<b>Neighborhood utility facility</b>	3,000 sq. ft.	50 feet	25 feet see #4	15 feet	25 feet	35 feet
<b>All other uses</b>	7,500	50 feet	25 feet see #4	15 feet	25 feet	35 feet

**Exceptions**

- #1 The sideyard will be required to be increased by 10 feet when the building is three stories in height or more.
- #2 A residence may be constructed on a lot-of-record which has a lot width of less than 50 feet.
- #3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #4 One required front yard may be reduced to 20 feet on corner lots. The street the property is addressed is assigned from the front yard that remains 25 feet.
- #5 A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.
- #6 See also Adjustment to Yard Regulations (Chapter 14) and Non-Conforming and Non-Standard Uses (Chapter 15) for other specific exceptions.

*(Amended: Ordinance No. 538, 10-25-2016)*

# 7

## ***R-4: MANUFACTURED HOUSING RESIDENTIAL DISTRICT***

The purpose of this district is to provide for high density residential areas in the City that may be developed for all types of manufactured housing and support facilities.

### ***7.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Manufactured home in licensed manufactured home parks</b>	13.14, 13.02, 13.03, 13.04, 13.06, 13.12 Municipal code regulations regarding manufactured home parks.
<b>Electrical substation</b>	An opaque screen, six feet in height, located at all setback lines. 13.12, 13.02
<b>Neighborhood utility facility</b>	13.02
<b>Accessory use and buildings (i.e. garage, shed)</b>	13.03 (see definition)

### ***7.02 Conditional Uses***

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Church</b>	One of the principle frontages shall abut upon an arterial or collector street. 13.02, 13.04, 13.12, 20.01 One freestanding sign as allowed within 13.06.

	<p>Where any church is adjacent to property developed for residential use, that church shall provide screening along the boundary of the residential property.</p> <p>Screening shall be installed so as to block direct vision. It shall consist of the following:</p> <ol style="list-style-type: none"> <li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li> <li>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</li> </ol> <p>All mechanical or electrical equipment located on the roof of a structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.</p>
<p><b>School</b></p>	<p>One of the principle frontages shall abut upon an arterial or collector street.  13.02, 13.04, 13.12, 20.01  Signage as allowed within 13.06 under CB &amp; GB Districts.</p> <p>Where any school is adjacent to property developed for residential use, that school shall provide screening along the boundary of the residential property.</p> <p>Screening shall be installed so as to block direct vision. It shall consist of the following:</p> <ol style="list-style-type: none"> <li>(1) An opaque fence or wall not less than five feet high, but not extending within 15 feet of any street or driveway.</li> <li>(2) Earth berms at least four feet in height together with compact evergreen or deciduous hedge and over and understory trees in a buffer strip at least 24 feet in width. At planting, hedge material must be at least two and one-half feet in height and deciduous trees must be at least five feet in height with a minimum of two and one-half inches in diameter. Coniferous trees must be at least four feet in height.</li> </ol> <p>All mechanical or electrical equipment located on the roof of a structure or on the ground around the perimeter of a structure shall be hidden from view at ground level using materials and designs that match those used for the structure.</p>

<b>Group day care</b>	A safe pickup and drop off area must be provided for the children. 20.01
<b>Group home</b>	Structure must be a single housekeeping unit. Applicant must provide copy of state agency license. 20.01
<b>Wind energy conversion system</b>	13.02, 13.06, 13.16, 20.01

### ***7.03 Lot and Yard Regulations***

All measurements shall be taken from the lot line to the building line (see definitions).

- A. Each manufactured home park shall be at least five (5) acres.
- B. The licensed manufactured home park shall be surrounded by a landscaped area 25 feet wide along all public streets and all manufactured home park boundaries.
- C. The entrance to the manufactured home park shall be allowed one freestanding sign as allowed for specified uses in 15-13-6.

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>Residential Uses</b>	6,000 sq. ft.	50 feet	25 feet	10 feet **	20 feet	35 feet
<b>Neighborhood utility facility</b>	3,000 sq. ft.	50 feet	20 feet	10 feet	20 feet	35 feet
<b>All Other Uses</b>	6,000 sq. ft.	60 feet	20 feet	10 feet	20 feet	35 feet

#### **Exception**

#1 See also Adjustment to Yard Regulations (Chapter 14) *and Non-Conforming and Non-Standard Uses (Chapter 15)* for other specific exceptions.

*(Amended: Ordinance No. 538, 10-25-2016)*

# 8

## ***CB: CENTRAL BUSINESS DISTRICT***

The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to preserving the City's Main Street Commercial Core. The grouping of uses is intended to preserve and improve the character and economic vitality of Main Street.

### ***8.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Retail trade or service</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Office</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Personal service establishment</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Hotel/motel</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Gasoline dispensing station</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Public utility facility</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Mortuary</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Private Club</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Churches</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Arcade</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Rooming /boarding house</b>	Subject to the residence being constructed above the first floor. 13.02, 13.04, 13.06, 13.12
<b>Motor vehicle service station</b>	Gasoline pumps and gasoline pump islands shall be located more than 15 feet from the nearest property line. 13.02, 13.04, 13.05, 13.06, 13.12

<b>Accessory use and buildings (i.e. garage &amp; shed)</b>	13.03, 13.02 (see definition)
<b>Fences</b>	13.09
<b>Commercial parking lots/parking ramps</b>	13.02, 13.04, 13.06, 13.12
<b>Lumberyard</b>	Subject to screening of all parts and accessories from view. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

## 8.02 Conditional Uses

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Dwellings</b>	Being above the first floor. 13.02, 13.04, 13.06, 13.12, 20.01
<b>Adult Oriented Business</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Electrical Substation</b>	An opaque screen, six feet in height, located at setback lines. 13.02, 13.12, 20.01
<b>Wireless Communication Facility on existing support structure</b>	13.10, 20.01
<b>Day care center</b>	Adequate and safe playground area with a fence four (4) feet high (see 13.09). 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Motor vehicle repair shop</b>	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired, not exceeding twenty-one (21) days. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>On-sale alcoholic beverage establishment</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Telecommunications tower</b>	13.02, 13.04, 13.06, 13.10, 13.12, 20.01
<b>Wind energy conversion system</b>	13.02, 13.06, 13.12, 13.16, 20.01

### ***8.03 Lot and Yard Regulations***

All measurements shall be taken from the lot line to the building line (see definitions).

- A. The average front and rear yard setback existing on each street shall apply.
- B. There are no side yard, lot area, or maximum height restrictions.
- C. See also Adjustment to Yard Regulations (Chapter 14) *and Non-Conforming and Non-Standard Uses (Chapter 15)* for specific exceptions.

# 9

## ***GB: GENERAL BUSINESS DISTRICT***

The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space. It is not the intent of this district to encourage the extension or enlargement of strip commercial areas.

### ***9.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Retail trade or service</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Office</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Personal service establishment</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Hotel/motel</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Motor vehicle service station/gas dispensing station</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Printing plant</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Hospital/clinic</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Public utility facility</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Mortuary</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Private club</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Church</b>	All parking lots being 8 feet from all residential properties. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Arcade</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Greenhouse/nursery</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Drive-in theater</b>	13.02, 13.04, 13.05, 13.06, 13.12

<b>Car wash</b>	Five storage spaces for each bay beyond off-street parking requirements and the water from the car wash contained on the site. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Motor vehicle sales, display, and service</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Farm store, feed store</b>	Subject to only accessory storage of fertilizer or farm chemicals on the site. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Commercial recreation facility</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Accessory use and buildings (i.e. garage &amp; shed)</b>	13.03, 13.02 (see definition)
<b>Off-sale alcoholic beverage establishment</b>	13.02, 13.04, 13.05, 13.06, 13.12

## 9.02 Conditional Uses

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Adult oriented business</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01 Chapters 8-6 to 8-9 and SDCL 11-12-2,3
<b>Electrical substation</b>	An opaque screen, six feet in height, located at setback lines. 13.02, 13.12, 20.01
<b>On -sale alcoholic beverage establishment</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Wireless communication facility on existing support structure</b>	13.10, 13.02, 13.04, 13.06, 13.12, 20.01
<b>Telecommunications tower</b>	13.10, 13.02, 13.04, 13.06, 13.12, 20.01
<b>Day care center</b>	Adequate and safe playground area with fence four feet high. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

<b>Wind energy conversion system</b>	13.02, 13.04, 13.05, 13.06, 13.12, 13.16, 20.01
<b>Motor vehicle repair shop</b>	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired, not exceeding twenty-one (21) days. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Veterinarian</b>	No outdoor kenneling of dogs within 1,000 feet of a residential area. * 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Bus passenger terminal</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Lumberyard</b>	Subject to screening of all parts and accessories from view. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Farm implement sales, display, and service</b>	Subject to the screening of all outdoor storage from view. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Bus/truck terminal</b>	13.02, 13.04, 13.05, 13.06, 13.012, 20.01
<b>Campground</b>	Lot must contain at least 2,000 square feet and supplied with city water and sanitary sewer services; access road on the campground site shall be paved or surfaced in a similar manner to the adjacent public roads, shall be approved by the City, and shall be 14 feet for one way and 20 feet for two way roads. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Commercial Kennel</b>	Located 1,000 feet from residential district area. * 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

\* measured from the closest point of the outside walls of both structures.

(Amended: Ordinance No. 538, 10-25-2016)

### **9.03 Lot and Yard Regulations**

All measurements shall be taken from the lot line to the building line (see definitions).

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>All Uses</b>	NA	60 feet	25 feet see #3	7 feet see #1, #3	5 feet see #2	45 feet

## **Exceptions**

- #1 A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.
  - \* A fence, wall, berm, or shrubbery six (6) feet in height and of a character necessary for adequate screening of a GB property from adjacent R-1, R-2, R-3, or R-4 property shall be provided.
- #2 A rear yard of 20 feet shall be required where a lot is adjacent to or abuts a residential district.
  - \* A fence, wall, berm, or shrubbery six (6) feet in height and of a character necessary for adequate screening of a GB property from adjacent R-1, R-2, R-3, or R-4 property shall be provided.
- #3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #4 See also Adjustment to Yard Regulations (Chapter 14) *and Non-Conforming and Non-Standard Uses (Chapter 15)* for other specific exceptions.

# 10

## ***LI: LIGHT INDUSTRIAL DISTRICT***

This district is intended to provide for a number of light manufacturing, wholesale, warehousing, and service uses in an attractive industrial park-like setting.

### ***10.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Wholesale trade</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Light manufacturing</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Contractor's shop/storage yard</b>	13.02, 13.04, 13.05, 13.06, 13.12 Subject to screening of all outdoor storage from view.
<b>Office</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Public utility facility</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Frozen food locker</b>	13.02, 15-13.04, 13.05, 13.06, 13.12
<b>Wireless communication facility on existing support structure</b>	13.10, 13.02, 13.04, 13.05, 13.06, 13.12
<b>Printing plant</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Motor vehicle service station</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Electrical substation</b>	Opaque screen, six feet in height, located as far back as all setback lines. 13.02, 13.12
<b>Warehouse, mini-warehouse</b>	The materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Lumberyard</b>	13.02, 13.04, 13.05, 13.06, 13.12

<b>Retail trade or service</b>	Only when it is an accessory use when in conjunction with the primary use of wholesaling or manufacturing. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Truck or bus wash</b>	All water from the truck or bus wash being contained on the site. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Truck repair, sales, and service</b>	Subject to no unscreened outdoor storage of parts.
<b>Farm store or feed store</b>	Only accessory storage of fertilizer or farm chemicals on the site. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Farm implement sales, display, and service</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Accessory use and buildings (i.e. garage, shed)</b>	13.03 (see definition)
<b>Off-premise sign</b>	13.02, 13.07

### *10.02 Conditional Uses*

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Telecommunications tower</b>	13.10, 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Bus/truck terminal</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Recycling collection or processing facility</b>	Screening of all recyclable material from view. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Automobile storage yard</b>	Screening of the storage yard with fence, berm vegetation or placement on the lot. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Broadcast tower</b>	Located at least 300 feet from a residential district. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Motor vehicle repair shop</b>	An adequate number of parking spots to store the cars and screen parts and materials from view. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

<b>Owner Occupied Dwelling Unit</b>	Dwelling unit shall occupy the lesser of 1,300 square feet or 25% of the structure foot print. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Municipally owned waste water treatment facility</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Wind energy conversion system</b>	13.16, 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

(Amended: Ordinance No. 538, 10-25-2016)

### ***10.03 Lot and Yard Regulations***

All measurements shall be taken from the lot line to the building line (see definitions).

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>All Uses</b>	NA	75 feet	25 feet, see #3	10 feet, see #2, #3	25 feet	45 feet, see #1

#### **Exceptions**

- #1 A conditional use permit will be required for any structure having a maximum height exceeding 45 feet. (See 15-20-1)
- #2 A side yard of 25 feet shall be required where a lot is adjacent to or abuts a residential district.
- #3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.
- #4 See also Adjustment to Yard Regulations (Chapter 14) *and Non-Conforming and Non-Standard Uses (Chapter 15)* for other specific exceptions.
- #5 Waste water treatment facilities are exempt from minimum yard or set back requirements.

# 11

## ***HI: HEAVY INDUSTRIAL DISTRICT***

This district is intended to provide for general industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, or commercial establishment. All uses in this district shall comply with any state or local regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable.

### ***11.01 Permitted Uses***

<b><u>Permitted Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Wholesale trade</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>General manufacturing other than those listed below</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Farm store or feed store</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Contractor's shop/storage yard</b>	13.02, 13.04, 13.05, 13.06, 13.12 Subject to screening of all outdoor storage from view.
<b>Public utility facility</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Frozen food locker</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Wireless communication facility on existing support structure</b>	13.02, 13.04, 13.05, 13.06, 13.12
<b>Electrical substation</b>	An opaque screen, six feet in height, must be located as far back as all setback lines. 13.02, 13.12
<b>Retailing</b>	Being an accessory use when in conjunction with a primary use of wholesaling or manufacturing. 13.02, 13.04, 13.05, 13.06, 13.12

<b>A warehouse or mini-warehouse</b>	Subject to the materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Bus and truck wash</b>	All water from the truck or bus wash being contained on the site. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Truck repair, sales, and service</b>	No unscreened outdoor storage of parts. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Fruit and vegetable canning and processing</b>	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Refining</b>	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Motor vehicle repair shop</b>	An adequate number of parking spots to store the cars and screen parts and materials from view. 13.02, 13.04, 13.05, 13.06, 13.12
<b>Accessory use and buildings (i.e. garage, shed)</b>	13.03 (see definition)
<b>Off-premise signs</b>	13.02, 13.07

### *11.02 Conditional Uses*

<b><u>Conditional Use</u></b>	<b><u>Applicable Standards</u></b>
<b>Bus/truck terminal</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Telecommunications tower</b>	13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Recycling collection facility</b>	Subject to any outdoor storage of recyclable materials must be within an opaque screened area at least six feet in height. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

<b>Manufacture of: acid, alcohol, ammonia, asphalt, bleach, cement, chlorine, dyestuffs, explosives, fertilizer, glue, gypsum, lime, oils, paint, plaster of paris, shellac, sizing, turpentine or yeast</b>	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Stockyards/slaughtering of animals</b>	Subject to traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Rendering</b>	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Distillation of products</b>	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Paper manufacturing Smelting Boiler works</b>	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Tank farm; petroleum products terminal</b>	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Grain terminal; grain processing</b>	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Salvage yard</b>	Being sited off the main thoroughfares of the City, ½ mile from a residential district and be screened from view; the owner shall agree to control rodents as a condition of the permit. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Manufacture and storage of electric transformers</b>	Chemicals associated with the transformers will be contained in an acceptable manner. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Quarry</b>	Subject to the site being located at least 1,000 feet from commercial or residential properties. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

<b>Automobile storage yard</b>	Screening of the storage yard with fence, berm, vegetation or placement on the lot. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Owner Occupied Dwelling Unit</b>	Dwelling unit shall occupy the lesser of 1,300 square feet or 25% of the structure foot print. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Recycling processing facility</b>	Any outdoor storage of recyclable materials must be within an opaque screened area at least six feet in height and all processing operations must be fully enclosed. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Broadcast tower</b>	Being located at least 300 feet from a residential district. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Solid waste transfer facility</b>	Screening of the storage area with fence, berm, vegetation or placement on the lot. Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area. 13.02, 13.04, 13.05, 13.06, 13.12, 20.01
<b>Wind energy conversion system</b>	13.16, 13.02, 13.04, 13.05, 13.06, 13.12, 20.01

*(Amended: Ordinance No. 538, 10-25-2016)*

### ***11.03 Lot and Yard Regulations***

All measurements shall be taken from the lot line to the building line (see definitions).

	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>All Uses</b>	NA	NA	40 feet, see #2, #3	10 feet, see #2	25 feet	65 feet, see #1

#### **Exceptions**

- #1 A conditional use permit will be required for any structure having a maximum height exceeding 65 feet. (See 15-20-1)
- #2 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.

- #3 A front yard of 60 feet shall be required if any structure exceeds 30 feet.
- #4 See also Adjustment to Yard Regulations (Chapter 14) for other specific exceptions.

# 12

## ***PD: PLANNED UNIT DEVELOPMENT DISTRICT***

### ***12.01 Purpose***

The planned unit development district is intended to permit flexibility of site design and the conservation of land and open space through clustering of buildings and activities. This flexibility can be achieved by allowing deviations from standards including setbacks, heights and similar regulations.

### ***12.02 Required Use***

PUD zoning is required for all developments having two or more principal uses or structures on a single parcel of land and may include townhouses, apartment projects involving more than one building, residential subdivisions, multi-use structures such as apartment building with retail at ground floor level, commercial developments, mixed residential and commercial developments and similar projects.

### ***12.03 Comprehensive Plan Consistency***

A PUD must be consistent with the Brandon Comprehensive Plan.

### ***12.04 Permitted Uses and Standards***

The permitted uses, standards and development plan shall be set forth in the ordinance rezoning the property to PUD.

### ***12.05 Procedure for PUD***

- A. Approval process. The application and hearing process for planned unit developments will be as required for other zoning chapter amendments (Chapter 20).

- B. Application information. An applicant shall submit a completed application form furnished by the Zoning Administrator, together with the following information:
1. Drawings in schematic form containing the following:
    - a. The location, size of site and the proposed uses of the land to be developed.
    - b. The use, height, bulk and approximate location of buildings and other structures.
    - c. The plans for parking of vehicles and the location and width of proposed streets, curbs, gutter and landscaping.
    - d. A schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
  2. A written statement must include the following:
    - a. A narrative explanation of the general character of the planned unit development and its integration with the surrounding land uses.
    - b. A statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures and useable open space.
  3. The following exhibits:
    - a. A legal description of the property including approximate total acreage.
    - b. Boundary survey prepared by a registered surveyor of the property and 100 feet beyond showing:
      - i. Existing property lines and dimensions.
      - ii. Ownership of all parcels.
      - iii. Platting and easements.
      - iv. Street and railroad rights-of-way.
      - v. Buildings.
      - vi. Utility lines and facilities.

- c. A topographic map prepared by a registered civil engineer or registered land surveyor covering the entire tract proposed for development which contains the following information:
  - i. Contour lines at no more than foot intervals.
  - ii. Hydrologic information including drainage patterns, wetlands and land subject to periodic flooding.
  - iii. Vegetation.
- d. Any other material requested by the City Council, Planning Commission or Zoning Administrator.

### ***12.06 Coordination With Subdivision Approval***

If development of the PUD requires subdivision approval, the PUD and subdivision shall be processed concurrently.

### ***12.07 Amendment of Plan***

Any substantial changes in the final development plan, including but not limited to changes in land use, increases in development density or intensity or changes in the provisions for common open spaces shall require a PUD amendment. The amendment process for planned unit developments shall be the same as that for all other zoning chapter amendments (Chapter 20).

### ***12.08 Planned Unit Development Districts***

Planned development districts shall be as enumerated below:

### ***12.09 PD Hedgewood Estates***

It is the intention of this district to establish a housing development of single family homes with smaller lots and smaller setbacks and through an association, provide lawn mowing, snow removal and exterior maintenance.

### **SPECIAL AREA REGULATIONS:**

- A. Minimum Lot Requirements:

For each permitted dwelling, there shall be a lot area of not less than fifty-four hundred (5,400) square feet. The minimum lot width shall be sixty (60) feet.

- B. **Minimum Yard Requirements:**  
Permitted uses and structures shall have a minimum front yard of twenty (20) feet, minimum side yards of five (5) feet, and a minimum rear yard of twenty (20) feet.
- C. **Maximum Lot Coverage:**  
The maximum lot coverage for all buildings and structures shall not exceed seventy (75) percent of the total lot area, less required yards.
- D. **Maximum Height of Structures:**  
The maximum height of all buildings and structures shall not exceed thirty-five (35) feet.
- E. **Street right-of-way to be sixty (60) feet and the width of the street back of curb to back of curb to be thirty-two (32) feet.**
- F. **No out buildings permitted.**
- G. **Units to be individual homes with a garage. The exterior will be lined with a hedge to lend to the name "Hedgewood Estates". There will be four basic house styles.**
- H. **The covenants will state that there will be no campers, boats or trailers parked outside.**

### ***12.10 PD Sunrise Estates***

It is the intention of this district to establish a housing development of single family homes with smaller lots and smaller setbacks and through an association, provide services to include lawn mowing, snow removal and other exterior maintenance.

#### **SPECIAL AREA REGULATIONS:**

- A. **Minimum Lot Requirements:**  
For each permitted dwelling, there shall be a lot area of not less than fifty-four hundred (5,000) square feet. The minimum lot width shall be fifty-three and on half (53.5) feet.
- B. **Minimum Yard Requirements:**  
Permitted uses and structures shall have a minimum front yard of twenty (20) feet, minimum side yards of five (5) feet, and a minimum rear yard of twenty (20) feet.
- C. **Maximum Height of Structures:**  
The maximum height of all buildings and structures shall not exceed thirty-five (35) feet.

- D. Street right-of-way to be twenty-nine-and-a-half (29.5) feet and the width of the street back of curb to back of curb to be twenty-nine-and-a-half (29.5) feet
- E. No out buildings permitted.
- F. Units to be individual homes with a garage.
- G. The covenants will state that there will be no campers, boats or trailers parked outside.

# 13

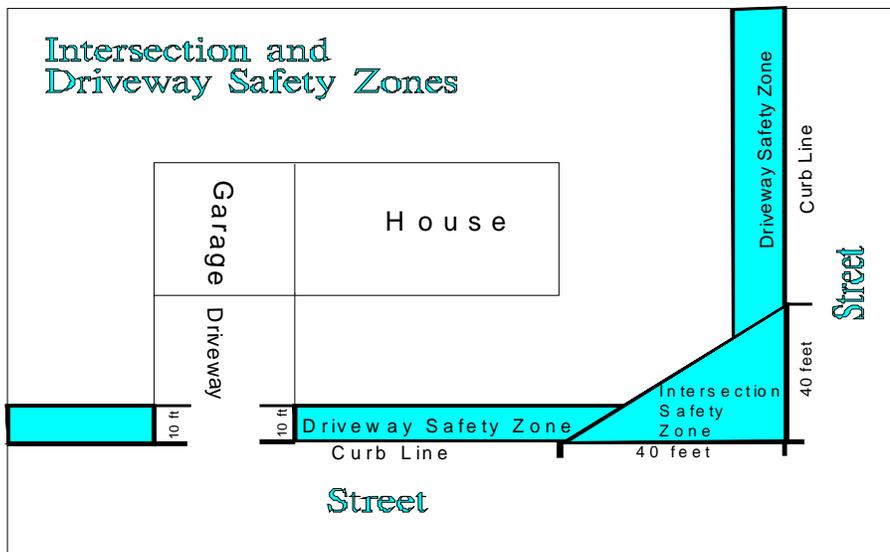
## ADDITIONAL USE REGULATIONS

### 13.01 Reserved

### 13.02 Visibility at Intersections and Driveways

- A. Intersection safety zones: No monument style sign or other sign with its face less than twelve (12) feet above grade or any fence, wall, shrub or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted or maintained within a triangular area of a corner lot that is included by measuring straight lines along the curb lines at points 40 feet distant in each direction from the intersection of the curbs and a straight line connecting the first two lines. (See Figure 1)
- B. Driveway safety zones: No monument style sign or other sign with its face less than ten (10) feet above grade or any fence, wall, shrub, or other obstruction to vision exceeding three feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten feet behind the curb line. (See Figure 1)

Figure 1



### ***13.03 Accessory Building and Uses***

#### **A. In General.**

1. No accessory building or use shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building or use shall be used unless the main building on the lot is also being used.
2. No accessory building or structure may be placed within an easement, except for equipment pertaining to said easement. Any existing accessory building or structure placed within an easement that impedes the access or intended use of that easement may be removed by the City or the City's representative at the owner's expense.
3. No accessory building or structure may be placed within drainageways and/or on drainage easements.
4. Accessory buildings may not be used for dwelling purposes.
5. No accessory building, structure or use shall be located within ten (10) feet of a principal structure.

#### **B. Accessory Buildings:**

1. Only one accessory building shall be permitted per lot.
2. Accessory buildings, regardless of zoning district, shall be subordinate to the principal building with regard to size and height but in no event shall an accessory building exceed 1,000 square feet. Exception: Lots with a lot area of one acre or greater may have an accessory building up to 2,000 square feet.
3. The roofing and siding materials of accessory buildings larger than 150 square feet shall be similar to the principal structure.
4. Any accessory building which is entered directly from an alley shall not be closer than fifteen feet to the property line abutting the alley.
5. Access to a private garage shall consist of a minimum of eight (8) feet of unoccupied property beyond the required yards.
6. No accessory building shall be erected or located within any front yard.
7. Accessory buildings shall not exceed a maximum sidewall height of ten (10) feet and shall be five feet or more from all property lines.
8. Children's playhouses shall not be counted as an accessory building if playhouse does not exceed the following requirements:

- a. Children's playhouse shall not exceed one (1) story;
  - b. Side walls shall not exceed eight (8) feet in height;
  - c. Children's playhouse shall not exceed 96 square feet in gross floor area; and
  - d. No children's playhouse shall be erected or located within any front yard or any required yard other than the rear yard.
9. Construction of a private kennel shall not occur within any front yard and shall be five (5) feet or more from all property lines. Private kennels shall not be counted as an accessory building.

*(Amended: Ordinance No. 538, 10-25-2016)*

### **13.04 Off-Street Parking**

#### **A. General Conditions**

1. No parking spaces are permitted except as otherwise provided in this title.
2. Front Yard: NRC front yard parking is allowed; parking in the required setback is allowed only by conditional use. R-1 and R-4 front yard parking, except church, school and library uses, is not allowed at all except for the portion of the front yard necessary for hard surfaced driveways; any parking space or pad in the front yard must be hard surfaced. CB and GB front yard parking is allowed, including but not limited to within the setback area. R-2, R-3, LI, and HI front yard parking is allowed; parking in the setback is allowed only by conditional use.
3. Side Yard: NRC, R-1, R-2, R-3, R-4, LI, and HI side yard parking is allowed so long as no parking is within the required setback; any parking space or pad in the side yard must be hard surfaced and adjacent to a garage. CB and GB side yard parking is allowed only by conditional use.
4. Rear Yard: NRC, R-1, R-4, LI, and HI rear yard parking is allowed; LI and HI parking within the set back area is allowed only by conditional use. R-2, R-3, CB and GB rear yard parking is allowed only by conditional use. Any parking space or pad in the rear yard must be hard surfaced.
5. No driveway or curb cut shall exceed a total cumulative width of thirty-six (36) feet per lot, unless an alternative plan is approved by the Planning and Zoning Commission.
6. Each parking space shall be directly accessible to an access aisle.

7. Except in conjunction with a legal nonconforming business it is unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any commercial vehicle, with a manufacturer's gross vehicle weight rating over ten thousand (10,000) pounds, in a NRC, R-1, R-2, R-3 or R-4 Zoning District, unless the vehicle is parked in connection with the performance of a service. The transferring of refuse from a smaller satellite vehicle to a large packer garbage truck is prohibited.
8. All parking, loading, access aisle, and maneuvering and drive areas thereto shall be hard surfaced and have access to public right-of-way.
9. Unless otherwise so specified, the parking requirements in this section shall not be applicable to property in the CB, except for residential uses in the CB which are authorized by conditional use.
10. All off-street parking must be located on the same parcel as the principal use.

*(Amended: Ordinance No. 538, 10-25-2016)*

#### B. Required Parking Spaces

In computing the number of required off-street parking spaces the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional spaces result, the parking spaces required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all other districts, see TABLE 1 below:

TABLE 1: Minimum Off-Street Parking & Loading Requirements

<b><u>Uses &amp; Structures</u></b>	<b><u>Minimum Parking Requirements</u></b>
<b>Single-family and two-family dwellings</b>	Two spaces for each dwelling unit.
<b>Multiple-family dwellings</b>	One and one-half (1 ½) spaces for each dwelling unit of one bedroom or less. Two spaces for each dwelling unit of two bedrooms or more.
<b>Rooming and boarding houses, sororities and fraternities</b>	One (1) parking space for each two hundred (200) square feet of floor area (one space per two beds).
<b>Bowling alleys</b>	Four (4) spaces per lane.
<b>Church or Temple</b>	1 space for each four (4) seats in main setting area.
<b>Private club or lodge</b>	One (1) parking space for each three hundred (300) square feet of floor area.

<b>High School</b>	Four (4) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
<b>Elementary School</b>	Two (2) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
<b>Eating and Drinking Places</b>	One (1) space for each one hundred (100) square feet of gross floor area or one (1) space for each three seats, whichever is greater.
<b>Hospitals</b>	One space for each bed.
<b>Nursing, convalescent and rest homes</b>	One space for each 3 beds.
<b>Auditoriums, theaters and places of public assembly</b>	One space for each four (4) seats of design capacity.
<b>Hotels and Motels</b>	One (1) space for each two (2) rental rooms.
<b>Funeral homes</b>	One (1) space for each four (4) seats in the chapel.
<b>Retail sales establishments</b>	One (1) space for each three hundred (300) square feet of floor area.
<b>Medical and dental clinics</b>	One (1) space for each two (2) staff members and full-time employees, plus one (1) space for each six hundred (600) square feet of gross floor area.
<b>Manufactured home parks</b>	Two (2) spaces for each manufactured home lot.
<b>Industrial uses</b>	One and one-half (1 ½) spaces for each two (2) employees on the maximum working shift.
<b>Service establishments</b>	One (1) space for each three hundred (300) square feet of floor area.
<b>Wholesale and distribution establishments</b>	One (1) space for each two (2) employees on the maximum working shift.
<b>Day Care Center, preschool</b>	One (1) space for each employee on the maximum working shift, plus one (1) space for each ten (10) persons the facility is licensed to enroll. Additional parking or designated area for drop-off and pick-up may be required.

All other uses not specified above shall have minimum off-street parking and off-street loading spaces as determined by the City Council.

### ***13.05 Off-Street Loading Requirements***

There shall be provided at the time any building is erected or structurally altered, off-street loading spaces for the following uses.

<u>Use</u>	<u>Gross square feet floor area</u>	<u>Number of Off-street loading spaces (located next to building)</u>
<b>Office Buildings</b>	25,000 - 50,000 every additional 75,000	One 14' x 35' space Add one 14' x 35' space
<b>Retail, Service and Trade Establishments and Industrial and Wholesale Commercial</b>	5,000 - 20,000 20,000 - 100,000 Every additional 75,000	One 14' x 35' space Two 14' x 35' spaces Add one 14' x 35' space

### ***13.06 On-Premise Signs***

<u>Districts</u>	<u>Permitted Signs</u>	<u>Sign Area (maximum)</u>	<u>Sign height (maximum)</u>
<b>NRC, R-1, R-2, R-3, R-4 for specified uses only *</b>	Freestanding	100 square feet	6 feet above grade
<b>R-1, R-2, R-3, R-4</b>	Wall	2 square feet	On wall only
<b>CB &amp; GB</b>	Wall, roof, and projecting	3 square feet per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	Wall = on wall only Roof and projecting = 5 feet above roof line
<b>CB &amp; GB</b>	Freestanding	1 square foot per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	GB = 30 feet above grade CB = 18 feet above grade
<b>LI &amp; HI **</b>	Freestanding	1 square foot per 3 lineal feet of street frontage	20 feet above grade

<b>LI &amp; HI ***</b>	Wall, roof, and projecting	1 square foot per 3 lineal feet of street frontage	Wall = on wall only. Roof and projecting = 5 feet above roof line
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- \* Specified uses are listed within the district’s permitted uses applicable standard tables (sections 3.01, 4.01, 5.01, 6.01 and 7.01).
- \*\* Freestanding signs shall be limited to one per street frontage except that businesses on frontages of 200 feet or more may erect two freestanding signs. However, the total sign area of both signs may not exceed that allowed.
- \*\*\* When a parcel has multiple frontage, an additional sign area of 1 square foot for each additional 3 lineal feet of street frontage shall be allowed for other street frontages.

### ***13.07 Off-Premise Signs***

Off-premise signs are allowed in the LI and HI Districts subject to the following regulations:

- A. Off-premise signs will be allowed a maximum size of 288 square feet.
- B. Signs will be allowed a maximum height of 40 feet; and a minimum height of 12 feet.
- C. On corner lots no sign shall be located less than thirty (30) feet from the intersection of the street right of way lines at the corner.
- D. No sign may encroach in any manner, including overhang, the street or highway right-of-way.
- E. Off-premise signs shall have no more than 1 structural support or pole.
- F. Off-premise signs shall not be located less than 500 feet from any other off-premise sign or a residential district.

### ***13.08 Other Permitted Signs***

Temporary on-premise signs are allowed in the CB, GB, LI, and HI districts unless otherwise prohibited. All temporary signs in these districts are subject to the following regulations:

- A. No sign may encroach in any manner, including overhang, the public street or highway right-of-way.
- B. Each property shall be allowed 180 permit days per year for the display of temporary on-premise signs.

- C. Total area of on-premise temporary signs shall not exceed 1,000 square feet.
- D. A permit is required prior to placement of mobile or temporary signs. Applicant may, after application for a permit and approval thereof, locate a mobile or temporary sign in the permitted location for a period not to exceed 30 consecutive days. If sign placement exceeds 30 consecutive days applicant will need to apply for a renewed permit. Separate permits shall be required for each sign displayed.
  - 1. One temporary sign located on a property that is for sale or lease shall be exempt from the requirement of obtaining a permit so long as the sign adheres to the following:
    - a. Sign shall not exceed thirty-two (32) square feet in area.
    - b. Temporary sign shall not be located closer than ten (10) feet to a lot line.
    - c. Such sign shall be removed after sale or lease of the property.
  - 2. Temporary banner style signs made of a lightweight fabric, canvas, plastic, or similar material shall be exempt from the requirement of obtaining a permit if they do not exceed 60 square feet in area and are securely mounted to a building with cables, ropes, tie downs or other similar fasteners. Further banner signs shall be maintained to the following requirements:
    - a. Banner signs shall be secured flat against a building at all times.
    - b. Banner signs shall be removed if material is torn.

A property for sale or lease in a Residential district shall be allowed one temporary on-premise sign exempt from the requirement of obtaining a permit so long as the sign adheres to the following:

- A. In R-1 and R-2 Districts sign shall not exceed sixteen (16) square feet in area.
- B. In R-3 and R-4 Districts sign shall not exceed thirty-two (32) square feet in area.
- C. Temporary sign shall not be located closer than ten (10) feet to a lot line.
- D. Such sign shall be removed after sale or lease of the property.

Any sign installed or placed, except in conformance with the requirements of this chapter, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, any person who violates this section shall be subject to a fine of \$500.00 as described in Section 1.05 of these Ordinances.

*(Amended: Ordinance No. 533, 07-21-2016)*

### ***13.09 Fences***

Fences may be erected in required yards, provided they meet or exceed the following requirements:

- A. Except in LI or HI District, no barbed wire fence shall be erected or maintained.
- B. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.
- C. For R-1, R-2, R-3, R-4 CB, or GB District - Fences may be erected or maintained; provided that no fence over four (4) feet in height shall be erected or maintained in any front yard. On corner lots and double frontage lots, fences shall be no more than four (4) feet in height in the required front yards; however, fences no more than six (6) feet in height may be allowed in the second front yard. In no case shall fences exceed a height of six (6) feet.
- D. For LI or HI District - Fences may be erected or maintained; provided that no fence over eight (8) feet shall be erected or maintained in any required yard.
- E. No fence shall be erected which violates 15-13-2 - Visibility at Intersections. A fence may be allowed in the required site triangle if the fence is not more than 30% solid.
- F. Chain link fences for public tennis courts, public basketball courts, public baseball fields, or similar outdoor public recreational uses may be constructed to a maximum height of twenty-four (24) feet provided that the fence is not located within the required setback area.
- G. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.
- H. The side of the fence considered being the face (facing as applied to fence post) shall face abutting property.
- I. Any fence placed within an easement that impedes the access or intended use of that easement may be removed by the City or the City's representative at the owner's expense. Fences permitted in a drainage easement shall either be ninety percent (90%) open or at least two (2) inches above grade. No fence is allowed in a drainage easement if the cumulative width of the easement is greater than twenty (20) feet wide.

*(Amended: Ordinance No. 538, 10-25-2016)*

### ***13.10 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities***

Regulations regarding development of telecommunications towers, antenna structures and wireless communications facilities are intended to encourage the development of a competitive wireless communications marketplace while protecting the health, safety, and welfare of the public and maintaining the aesthetic integrity of the community. The regulations cover the placement, construction, and modification of telecommunications facilities.

- A. A minimum distance of three hundred (300) feet from the telecommunications tower to any residentially zoned or used property measured from the base of the telecommunications tower to the property line.
- B. A minimum distance of ½ mile between telecommunications towers measured from the base of one telecommunications tower to the base of another except when an existing antenna support structure is used to co-locate a wireless communication facility.
- C. Building permit shall include documented Federal Communications Commission (FCC) approval prior to permit issuance.
- D. The maximum height for telecommunications towers and wireless communications facilities shall not exceed 100 feet for single users or 200 feet for two or more users. When such structure is located in an airport approach zone, Federal Aviation Administration approval will be required prior to permit issuance.
- E. The tower shall be constructed in a manner that will make it inaccessible for unauthorized person to climb.

### ***13.11 Site-Built Single-Family and Multi-Family Dwelling Standards***

- A. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.
- B. All single-family dwellings shall be oriented on the lot, so that the primary pedestrian entrance faces the street or access easement.
- C. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.
- D. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted. Roofing material requirements may receive a variance if consent of all adjacent landowners is obtained.

- E. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.
- F. The exterior of the home must be finished with a minimum of two types of materials. Exposed fastener metal siding is prohibited on residential buildings. Siding material requirements may receive a variance if consent of all adjacent landowners is obtained.
- G. 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, excepting manufactured homes placed in an approved R-4 district. The Zoning Administrator or his or her designee shall inspect and authorize all dwellings moved into the City of Brandon. For the purposes of these regulations, manufactured housing shall be allowed only in the R-4 Manufactured Housing Residential District.

### ***13.12 Landscaping Standards***

It is the desire of the City of Brandon to encourage development which is environmentally sensitive and aesthetically pleasing. To assist in these objectives, a minimum standard for landscaping is prescribed.

- A. Within any zoning district, at least 90 percent of the required front yard setback shall be landscaped and maintained with grass or other living ground cover except for the portion of the front yard necessary for hard surfaced driveways (see 15-13-4) and except for parking.
- B. Within R-2, R-3, GB, CB, LI, and HI districts, one tree per 50 feet of lot width is required. No more than 20 percent of the trees may be planted in the street right-of-way. No more than 25 percent of the required trees may be deciduous ornamental, evergreen, or coniferous trees. Each existing tree of at least 1 3/4-inch caliper in size shall count toward the tree requirement.
- C. The area between the street paving or curb line and the property line or sidewalk, with the exception of driveways and walkways, shall be used exclusively and maintained as landscaped area with grass or other living ground cover. Commercial and industrial development may submit an alternate landscaping plan for approval by the Planning Commission.
- D. Required landscape areas must be capable of providing a substantially full expanse of foliage within three years after planting. All deciduous trees shall be 1 3/4-inch caliper and all deciduous ornamental shall be 1 1/4-inch caliper. These requirements are considered to be minimum requirements, and under no circumstances shall these measurements be lowered.
- E. All off-street parking lots, whether or not located on the same lot as the use to which it is accessory, shall meet the following perimeter landscaping requirements:

1. A landscaping strip with a minimum width of five (5) feet shall be located between the parking lot and the adjoining lot lines.
  2. A minimum of one shade tree for every fifty (50) feet of lot perimeter shall be planted in the landscaping strip. Deciduous shade trees with ground cover or with low shrubs shall be used as the primary landscape materials.
  3. A fence, wall or shrubbery six (6) feet in height and of a character necessary for adequate screening shall be installed or planted when a parking lot is located adjacent to residentially used property or across right-of-way from residentially use property. Berms or other landscaping techniques may be used for all or part of the six-foot screening if they have a maximum grade of three feet horizontal to one foot vertical and sodded or planted with other acceptable materials.
  4. The Planning Commission may modify the perimeter landscaping requirements.
- F. Within GB, CB, LI and HI districts, all service structures, which includes dumpsters, propane tanks, air conditioning units, and related equipment or elements providing service to a building or site, shall be fully screened or six-foot minimum with landscaping and/or a fence or wall.
- G. Lighting Standards: Lighting of all types, excluding street lighting and traffic signals, shall be directed so as to reflect away from all residential districts, and shall be so situated so as not to reflect directly onto any public right-of-way, so as to create a traffic hazard. When property is adjacent to or within 150 feet of residentially used or zoned property, the following lighting standards apply:
1. The maximum light level shall be no greater than three (3) foot candles field measured at the property line (ground level).
  2. The maximum height of light luminaries shall be 25 feet above the ground.
  3. Canopy luminaries and other on-site lighting with luminaries greater than 2000 lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture.
  4. The maximum number of canopy luminaries shall be determined by the following industry standard:
 

Canopy length (in feet) x canopy width (in feet) x 3 = Maximum No. of Luminaries  
Lamp wattage

All other light luminaries shall have a maximum height of 38 feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies.

The following structures or uses are exempt from these lighting standards: public recreation facilities, parks, pedestrian walkways, illuminated flags or statues, airport runways, telecommunication towers, broadcast towers, and historic period lighting.

### ***13.13 Home Occupations***

The following are the minimum standards required for a Home Occupation:

- A. No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. However, four square feet in area may be attached flat against the building located on arterial streets.
- B. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- C. No more than 50 percent of the home can be used for the home occupation (excluding Day Cares).
- D. No more than 200 square feet of an accessory building can be used for the home occupation.
- E. Home occupations shall employ no more than one full-time or part-time employee on-site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by the non-resident employee (excluding Day Cares).
- F. Unless expressly permitted by a conditional use permit, no retail sales are permitted from the site other than incidental sales related to services provided.
- G. No exterior storage is permitted.
- H. Additional off-street parking may be required for the business.
- I. If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on the street. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.

- J. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

### ***13.14 Manufactured Home Requirements***

- A. The pitch of the main roof shall not be less than three inches of vertical rise for each 12 inches of horizontal run. Metallic roofing surfaces shall not be permitted.
- B. Minimum width shall be 22 feet.
- C. The use of flat or corrugated sheet metal for the exterior walls is prohibited.
- D. The manufactured home shall meet United States Department of Housing and Urban Development Safety Standards Act of 1974, effective 1976. The installation of a manufactured home shall not be permitted if more than ten (10) years have elapsed between the date of manufacture of the manufactured home and the date of issuance of a permit to install the manufactured home.
- E. Each manufactured home shall be properly secured to the ground with either a permanent foundation extending no less than 4 feet below grade, or with tie downs installed as recommended by the manufacturer, but in no event more than 12 feet apart along the perimeter of the structure. Such tie downs shall extend down no less than 4 feet below grade.

### ***13.15 Bed and Breakfast Establishments***

- A. Bed and Breakfast's shall be limited to a residential structure.
- B. They shall be in compliance with applicable state laws including South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
- C. Such uses shall be an incidental use with an owner-occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.
- D. Off-street parking requirements shall be one space per guest room and shall be in addition to parking requirements for the residence.
- E. The length of stay shall not exceed 14 days during any 120-day consecutive period.
- F. Meals shall be limited to breakfast which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.

### ***13.16 Wind Energy Conservation Systems (WECS)***

- A. General. Wind energy conversion systems shall be allowed as conditional uses in certain zoning districts. In addition to the standards set forth in Chapter 20 regarding all conditional uses, all wind energy conversion systems shall also meet all requirements of Section 15-13-16 herein.
- B. Setbacks. WECS shall be set back a distance equal to no less than 1.1 times the total height of the structure. The setback distance requirement shall be measured from the base of the WECS to the nearest property line.
- C. Tower height. In no event shall the height of a wind energy conversion system exceed 55 feet in a NRC, R-1, R-2, R-3 or R-4 District or 150 feet in a CB, GB, LI or HI District as measured from the ground to the rotor hub.
- D. Rotor clearance. Blade-arcs created by the WECS shall have a minimum of twenty (20) feet of clearance over any structure or tree. WECS attached to principal or accessory structures are exempt from this requirement.
- E. Rotor safety. Each WECS shall be equipped with both a manual and automatic braking device capable of stopping WECS operation in high wind or in conditions of imbalance.
- F. Noise. No wind energy conversion system shall produce more than 60 decibels of sound measured at the closest point on the closest property line from the base of the system. Information from the manufacturer of the wind energy conversion system shall be submitted at the time of the submittal of the conditional use application, ensuring that this requirement can be met once the system is operational.
- G. Electromagnetic interference. WECS shall be designed and constructed so as not to cause interference with radios, televisions or other electronic devices.
- H. Access. Appropriate safety measures must be undertaken to discourage unauthorized climbing of a wind energy conversion system tower.
  - 1. The tower shall not be climbable for a height of eight (8) feet above the ground unless the applicant proves it would not be a public hazard.
  - 2. All access doors to the tower and exterior electrical equipment shall be locked when not attended.
- I. Warning information. Information related to the maximum power output, nominal voltage and maximum current, and emergency shut-down procedures for the wind energy conversion system shall be posted near the base of the tower in a visible location.

- J. Lighting. WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by the FAA or other State or Federal agency.
- K. Manufacturer warranty/maintenance information. Upon application for a conditional use for a wind energy conversion system, the petitioner shall submit a manufacturer's statement documenting that the system has been successfully and safely operated in atmospheric conditions that are similar to conditions in Brandon.
- L. Construction standards. Any wind energy conversion system shall be constructed in accordance with all applicable safety, building and fire codes including but not limited to the following:
  - 1. Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with the engineering data and calculations to demonstrate compliance with the structural design provisions of the City Building Code especially with regards to wind and icing loads. Drawings and engineering calculations shall be certified by a registered structural engineer.
  - 2. Roof-mounted WECS shall include detailed plans illustrating roof construction, mounting techniques and wind load capacity.
  - 3. Lightning Protection. Any wind energy conversion system shall have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system shall effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters and deep earth grounding.
  - 4. All WECS shall conform to applicable industry standards, as well as local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories or an equivalent third party.

### ***13.17 Holding Tanks in Lieu of Sanitary Sewer Systems***

No permits of any kind shall be issued in any residential or commercial zoning district not served by the municipal sanitary sewer system unless a holding tank is installed under the following provisions and requirements:

- A. Holding tanks must be installed with no outlets except one which is accessible for pumping. All holding tanks must be maintained so as to prevent any seepage or leakage. Only such holding tanks that are recommended for use by the City Engineer and approved by the City Council shall be installed. No drain field or other means of underground distribution shall be installed on the parcel of land.

- B. All such holding tanks must be pumped, as required, into such trucks or conveyances that will haul the sewage to an appropriate discharge area. It shall be the responsibility of the person authorizing the pumping of a holding tank to provide such evidence of pumping to the Director of inspections or the Municipal Finance Officer within seven (7) days following any pumping of a holding tank. Such evidence shall state the location of the holding tank, the name of the person authorizing the pumping, the date of pumping, the amount so pumped, and the signature of the person or firm doing the pumping. No discharge of sewage from a holding tank by pumping shall be distributed on any part of the lot.
- C. If, in the event, a holding tank is not pumped as required, the Director of inspections, the City Health Officer, or the City Council shall order such tank to be pumped, and for such purposes, may enter upon any such lot or parcel of land. Any and all expenses incurred in such pumping shall be paid by the owner of the lot and the City Council may use any legal means to collect such expenses.
- D. Any on-site inspection of the installation of a holding tank shall be made by the Director of Inspections. The Director of Inspections shall certify that the holding tank is of a type approved, that there are no outlets or connections to any drain field, dry hole, or any other means of distribution on the lot or parcel of land affected by this section, and that all sources of sewage from the lot or parcel of land are connected directly to such holding tank. It shall be the responsibility of the developer or owner of such lot or parcel of land to request such inspection before the holding tank or any of its connections are covered. In the event the holding tank or any of its connections are covered prior to any inspections, the Director of Inspections shall order such excavation as necessary to inspect the tank and all its connections. The owner or developer requisitioning such inspection shall pay all expenses incurred in excavation for the purpose of an inspection.
- E. Each day in violation of this section shall constitute a separate violation of this ordinance.
- F. Use of such holding tanks shall be discontinued within sixty (60) days after connection with the municipal sanitary sewage system is accessible.

# 14

## ***ADJUSTMENTS TO YARD REGULATIONS***

### ***14.01 Adjustment to Front Yard Requirements***

A front yard may be adjusted to an average of the adjacent structures' front yards where existing adjacent structures have a front yard less than required.

### ***14.02 Adjustment to Side Yard Requirements***

Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

### ***14.03 Projection from Buildings***

Every part of any required yard shall be open to the sky and unobstructed except:

- A. Eaves may project into a front, side, or rear yard thirty-six (36) inches, exclusive of gutter;
- B. Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features which may project twelve (12) inches;
- C. Air conditioners may project into a required side or rear yard setback;
- D. Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten feet;
- E. An open, unenclosed deck may project into a required front yard for a distance not exceeding ten (10) feet. Balconies and paved terraces may project into a required front yard for a distance not exceeding six (6) feet. An enclosed vestibule containing not more than 40 square feet may project into a required front yard for a distance not to exceed four feet; and

- F. Terraces, uncovered porches, platforms, decks and ornamental features which do not extend above twelve inches (12) on grade may project into a required yard, provided these projections be distances at least five feet from the adjacent side or rear lot line.

# 15

## ***NON-CONFORMING AND NON-STANDARD USES***

### ***15.01 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 with the district regulations subject to the following provisions:

- A. Whenever a nonconforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.
- B. Should any nonconforming use or structure be destroyed by any means to the extent of more than 50% of its replacement cost, such nonconforming use shall not continue.
- C. When a nonconforming use is discontinued for a period of more than six (6) months, any subsequent use, lot, or occupancy of the land or premises shall be in conformance.
- D. 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 such structure.
- E. 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.

### ***15.02 Continuation of Non-Standard 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:

- 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 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.
- 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.

# 16

## ***ADMINISTRATION AND ENFORCEMENT***

### ***16.01 Powers and Duties***

The Zoning Administrator is hereby authorized and directed to enforce all the provisions of the Zoning Ordinance and establish rules for its administration. For such purposes he or she shall have the powers of a law enforcement officer. The Zoning Administrator shall have the power to render interpretations of this ordinance. Such interpretations shall be within the intent and purpose of the Zoning Ordinance, and be set forth in writing. In addition, the Zoning Administrator may appoint or solicit technical advice, inspectors, city officials and other city employees to assist with the administration of the Zoning Ordinance. The Zoning Administrator shall be a City employee, with work week, hours of work and salary to be determined by the City Council or another person approved by the City Council. With approval of the City Council, the Mayor shall appoint the Zoning Administrator.

### ***16.02 Right of Entry***

Whenever necessary to make an inspection to enforce any of the provisions of this title, the Zoning Administrator and authorized representatives may enter such building or premises at all reasonable times to inspect. Provided such building or premises is occupied, the Zoning Administrator or authorized representative shall first present proper credentials and request entry. If such building or premises is unoccupied, the Zoning Administrator 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, or if the owner or another person is not found, then the Zoning Administrator or authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Zoning Administrator or authorized representative has first obtained a proper inspection warrant or other remedy provided by law to secure entry of the building or premises, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect to promptly permit entry.

### ***16.03 Complaints Regarding Violations***

Whenever a violation of the Zoning Ordinances occurs, or is alleged to have occurred, any person may file a complaint. Such complaint shall state the cause(s) and basis thereof and shall

be filed with Zoning Administrator, who shall investigate and enforce the provisions of the Zoning Ordinances. The complainant may appeal the Zoning administrator's decision to the Board of Adjustment as set forth in 15-18-3.

#### ***16.04 Stop Order***

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

# 17

## ***BUILDING PERMITS AND FEES***

### ***17.01 Building Permits***

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this Ordinance and adopted building code including use, height, number of occupants, lot area, off-street parking or yard requirements, shall occur without a Building Permit issued by the Zoning Administrator, or his or her authorized designee, of the City of Brandon.

- A. An Application for Building Permit, available from the Zoning Administrator of the City of Brandon, shall be completed by the landowner or landowner's representative requesting the Building Permit. Completed applications shall be returned to the Zoning Administrator of the City of Brandon for review. To be considered complete, the application form shall be accompanied by the following additional items:
  - 1. Any required attachments and City fees;
  - 2. One copy of plans drawn to scale, showing the dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration if structurally altering; and
  - 3. Any additional information, as requested by the Zoning Administrator of the City of Brandon, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.
- B. A copy of the plans shall be returned to the applicant, after the Zoning Administrator of the City of Brandon has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. A copy of the plans, similarly marked, shall be retained by the Zoning Administrator of the City of Brandon for City records.
- C. If the Zoning Administrator of the City of Brandon determines the proposed action would not be in compliance with the provisions of these regulations, a Building Permit may not be issued, except upon completion of one of the following processes established in these regulations, as may be applicable to such proposed action. The Zoning Administrator of the City of Brandon shall inform the applicant when one of the following processes may be applicable:

1. Variance
2. Amendment
3. Conditional Use Permit

Issuance of a Building Permit shall indicate that, in the opinion of the Zoning Administrator of the City of Brandon, the proposed use and/or alterations of existing use are in compliance with the requirements of these Zoning Regulations. Issuance of a Building Permit shall not be construed as waiving any provisions of these regulations. Proposed uses and/or alterations of existing uses which are not in compliance with the requirements of these Zoning Regulations shall not be issued a Building Permit.

### ***17.02 Fees***

A schedule of fees, charges, and expenses for permits, change of zone, appeals, and other matters pertaining to this Zoning Ordinance shall be established by resolution of the City Council. The current fee schedule shall be available from the Zoning Administrator of the City of Brandon. All fees shall be the property of the City and shall be paid over to the Zoning Administrator of the City of Brandon 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.

### ***17.03 Expiration of a Building Permit***

Every building permit issued under the provisions of this Chapter shall expire by limitation and become null and void if the work or use authorized by such permit is not completed within 365 days from the date of such permit. Before such work can be recommenced, a new permit shall first be obtained to do so, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

The Zoning Administrator may, except as otherwise provided herein, extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. No more than two active building permits are allowed on one property at a time.

# 18

## ***BOARD OF ADJUSTMENT***

### ***18.01 Establishment***

A Board of Adjustment is hereby established for the City of Brandon, which shall consist of the members of the Planning Commission, pursuant to SDCL 11-4-13.

### ***18.02 Powers and Duties***

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

- A. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Zoning Administrator of the City of Brandon in the enforcement of this ordinance; and
- B. To hear and decide upon petitions for variances to vary the strict applications of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.

### ***18.03 Board of Adjustment Appeal Procedure***

Appeals to the board may be taken by any person or persons aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator of the City of Brandon and with the Board of Adjustment. The Zoning Administrator shall transmit to the Board of adjustment all the papers constituting the record upon which the action appealed from was taken. Such notice of appeal shall be presented to the Zoning administrator and the Board of Adjustment within ten days after the filing of the decision in the office of the Zoning Administrator,

The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the Chairman and at such other times as necessary. Each session at which an appeal is to be heard shall be a public meeting. No less than ten (10) days before the public hearing, the Zoning Administrator of the City of Brandon shall publish notice of the public hearing in the legal newspaper of the city and shall provide notice of the hearing by mail to the appellant.

The public hearing shall be held. The appellant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any appeal or arrive at any determination.

#### ***18.04 Variances***

- A. An Application for a Variance, available from the Zoning Administrator of the City of Brandon, shall be completed by the landowner requesting the Variance. Completed applications shall be returned to the Zoning Administrator for review. To be considered completed, the application shall contain the following information:
  - 1. Legal description of the land on which such variance is requested, together with local street address;
  - 2. Name and address of each owner of the property;
  - 3. Name, address, phone number and signature of the applicant;
  - 4. Zoning district classification under which the property is regulated at the time of such application;
  - 5. Description of the variance sought from the Zoning Regulations; and
  - 6. Be accompanied with a site plan, unless waived by the Zoning Administrator.
- B. The Zoning Administrator shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.
- C. The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Variance no less than ten (10) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in the legal newspaper of the city.
- D. The public hearing shall be held. The applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The

concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any variance or arrive at any determination.

- E. The Board of Adjustment shall have the jurisdiction to hear and decide upon petitions for variances, to vary the strict application of the height, area, setback, yard, landscaping, signage, parking or density requirements as will not be contrary to the public interest. For purposes of these regulations, public interest shall include the interests of the public at large within the City, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance. The following issues are to be considered as determining factors in whether or not the issuance of a variance is justified:
1. An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship refers solely to the particular physical condition of the property, not any personal or self-inflicted hardship to its owner, financial or otherwise. The hardship must be substantial and of compelling force, not merely for reasons of convenience or profit, and must render the ability to use the land unfeasible without the variance.
  2. Literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the ordinance.
  3. The variance requested is the minimum variance that will alleviate the unnecessary hardship.
  4. Granting of the variance will comply with the general purpose and intent of the Ordinance, and will not be offensive to adjacent areas or to the public welfare.
  5. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered the sole grounds for the issuance of a variance.
  6. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.
- F. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Variance. A Variance shall remain valid only as long as the property owner complies with any terms and conditions of the Variance, as attached by the Board of Adjustment.
- G. No applicant requesting a Variance whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Board or City Council shall be again considered by the Board before the expiration date of six months from the date of the final action on the petition.

### ***18.05 Appeal of Board of Adjustment Decision to City Council***

Within five working days after the filing of the Board of Adjustment decision in the office of the Board, any person or persons aggrieved by any decision may submit a written request to the City Council specifying the reason(s) the Board decision should be modified, reversed or vacated, or the matter remanded to the Board. The Council may review the request and the decision and evidence presented to the Board; no new testimony or evidence may be submitted to the Council in connection with the review. The Council upon a two-thirds vote may modify, reverse or vacate the Board's decision, and/or may remand the matter back to the Board with or without direction. The Council shall enter its decision within ten (10) working days after the appeal has been filed. Its decision shall be entered in its regular minutes. The Council's decision may thereafter be presented to the court within thirty days after the Council's decision has been entered in the minutes. The Council's ability to conduct a review of the Board's decision, however, shall not toll the time limits specified in SDCL 11-4-25 for court review of the Board of Adjustment's filed decision.

### ***18.06 Court Review***

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the Board's decision as provided in SDCL 11-4-25.

# 19

## ***AMENDMENTS AND CHANGE OF ZONE***

### ***19.01 Procedure***

Zoning amendments and change of zones are changes to the City of Brandon's Zoning Regulations. Applications for amendment may be submitted by either the City or any owner of land within the City. The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, or repealed, provided however, that no such action may be taken until after public hearings, at which parties in interest and citizens shall have an opportunity to be heard.

The following procedure for requesting an amendment shall be followed:

- A. The Zoning Administrator of the City of Brandon shall review the application for amendment or change of zone and forward the application and his/her comments to the Planning Commission for review.
- B. The Zoning Administrator of the City of Brandon shall set the date, time and place for a Planning Commission public hearing. The Zoning Administrator of the City of Brandon shall publish notice of the public hearing in a legal newspaper of the city once not less than 10 days prior to the public hearing. At least one sign shall be posted on the property for a continuous period of ten (10) days immediately prior to any public hearing held by the Planning Commission to consider any rezoning application.
- C. 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.
- D. The Planning Commission, upon a two-thirds (2/3) vote of the members, shall either recommend or not recommend approval of the amendment to the City Council.
- E. The Zoning Administrator of the City of Brandon shall set the date, time and place for a public hearing. The Zoning Administrator of the City of Brandon shall publish notice of the public hearing in a legal newspaper of the city once not less than 10 days prior to the public hearing. At least one sign shall be posted on the property for a continuous period of ten (10) days immediately prior to any public hearing held by the City Council to consider any rezoning application.

- F. The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date.
- G. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect twenty days after publication, unless the referendum has been invoked.

# 20

## ***CONDITIONAL USE PERMITS***

### ***20.01 Conditional Uses***

Any conditional use approved by the Planning Commission shall conform to the standards set forth for such uses below. These standards shall be construed to be the minimum requirements for any of the specified conditional uses, and the Planning Commission may require additional reasonable stipulations at its discretion. In all cases, the impact of the proposed use on adjacent properties shall be a major consideration.

#### A. Procedure

The Planning Commission may authorize by Conditional Use Permit those uses specifically designated as Conditional Uses in Chapters 3 through 10. The Planning Commission shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of such Conditional Use Permit.

#### B. Application

To obtain a Conditional Use Permit, the applicant shall file an application with the Zoning Administrator on a form furnished by the City. Every application shall contain the following information:

1. Legal description of the land on which such Conditional Use is requested, together with local street address;
2. Name and address of each owner of the property;
3. Name, address, phone number and signature of the applicant;
4. Zoning district classification under which the property is regulated at the time of such application;
5. Be accompanied with a site plan, unless waived by the Zoning Administrator; and
6. Any other information concerning the property as may be requested by the Zoning Administrator or the Planning Commission.

C. Fees

Upon the filing of any application for a Conditional Use Permit with the Zoning Administrator, the applicant shall pay to the City the appropriate fee as designated by Resolution of the City Council.

D. Information on Site Plan

In addition to the following information, plans shall be drawn to scale upon substantial paper or provided electronically and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Chapter and all relevant laws, ordinances, rules and regulations. The Zoning Administrator may waive the submission of plans, if he or she finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this Chapter.

1. The address of the property and the legal description;
2. The name of the project and/or business;
3. The scale and north arrow;
4. All existing and proposed buildings or addition;
5. Dimensions of all buildings;
6. Distance from all building lines to the property lines at the closest points;
7. Building height and number of stories;
8. Dimensions of all property lines;
9. Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles;
10. Screening; show height, location, and type of material to be used;
11. The landscaped setback and trees; indicate species of trees and material to be used for landscaping; and
12. Name and location of all adjacent streets, alleys, waterways and other public places.

Approved plans shall not be changed, modified, or altered without authorization from the Planning Commission giving final approval, and all work shall be done in accordance with the approved plans.

## E. Review and Public Hearing Procedure

Prior to the approval of a Conditional Use Permit, the Zoning Administrator shall meet with the applicant to review the application. After review of the application, the Zoning Administrator shall make a recommendation to the Planning Commission to either approve or not approve said application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.

The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Planning Commission. No less than ten (10) days prior to the scheduled public hearing, the Zoning Administrator shall mail the landowner by notice, post notices at the City Office and on the property affected by the proposed Conditional Use Permit and publish notice of the public hearing in the legal newspaper of the City.

The following procedure shall be followed by the Planning Commission in considering the recommendation of the Zoning Administrator:

1. The public hearing shall be held. Any applicant 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.
2. Before any Conditional Use Permit shall be granted, the Planning Commission 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:
  - a. Ingress and egress to property 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;
  - b. Off-street parking and loading areas where required;
  - c. Refuse and service areas, with particular reference to (a) and (b) above;
  - d. Utilities, with reference to locations, availability, and compatibility;
  - e. Screening and buffering with reference to type, dimensions and character;
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;
  - g. Required yards and other open space;
  - h. General compatibility with adjoining properties and other property in the zoning

district in which such use is to be located;

- i. The goals and objectives of the most recently adopted Comprehensive Plan.

The Planning Commission, upon a two-thirds (2/3) vote of the members, shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with 20.02.

### ***20.02 Appeal of Conditional Use Application***

The decision rendered by the Planning Commission on a conditional use permit may be appealed to the City Council. Any such appeal by the applicant or any other person aggrieved by the decision of the Planning Commission shall be filed through a written appeal with the Zoning Administrator within five working days of the Planning Commission's oral decision. When an appeal is filed, the Zoning Administrator shall present the Planning Commission's decision to the City Council for review. The Zoning Administrator shall set the date, time and place for a public hearing to be held by the City Council. No less than ten (10) days prior to the scheduled public hearing, the Zoning Administrator shall mail the landowner notice, post notices at the City Office and on the property affected by the proposed Conditional Use Permit and publish notice of the public hearing in the legal newspaper of the City. On the day of the appeal review, the City Council shall review the decisions and recommendations of the Planning Commission. No new testimony or evidence may be submitted. The Council upon a two-thirds vote of the members may modify, reverse or vacate the Board's decision, or may remand the matter back to the Board with or without direction. The Council shall enter its decision in its regular minutes. An appeal to the City Council does not waive any requirements under SDCL 11-4-25.

### ***20.03 Permit Revocation***

A conditional use permit may be revoked only for cause, consisting of failure to maintain the standards required for the initial conditional use permit. A notice of intent to revoke a conditional use permit shall be given in writing thirty (30) days prior to actual revocation and shall specify the area or areas of continued failure to meet requirements and maintain conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the conditional use permit, the conditional use permit shall be continued in force. If a hearing has been requested following receipt of notice of intent to revoke, the Planning Commission shall hold a public hearing on the matter and make a final determination on the revocation

#### ***20.04 Expiration***

A conditional use permit shall expire two years from the date upon which it becomes effective if no work has commenced. Upon written request to the Zoning Administrator and prior to the conditional use permit expiration date a one-year time extension for the conditional use permit may be granted by the Zoning Administrator.

A conditional use permit approved in accordance with Chapter 17 shall expire one year after the use discontinues on the premises, or the use is changed to another permitted use in the underlying district.

#### ***20.05 Re-Application***

No applicant requesting a Conditional Use Permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Planning Commission or City Council shall be again considered by the Planning Commission before the expiration date of six months from the date of the final action on the petition.

# 21

## ***DEFINITIONS***

### ***21.01 Purpose***

In the application of this Ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

- A. Words used in the present tense shall include the past and future.
- B. Words used in the singular number shall include the plural number and the plural, the singular.
- C. The word “shall” is mandatory and not discretionary.
- D. The word “may” is permissive.
- E. The words “used” or “occupied” shall include the words “intended,” “designed,” or “arranged to be used or occupied.”
- F. The word “lot” shall include the words “plot,” “parcel,” or “tract.”
- G. The word “person” shall include a “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as an “individual.”
- H. The word “building” shall include the words “structure” and “premises.”
- I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

### ***21.02 Definitions***

**ABUTTING** - Abutting shall mean adjacent or contiguous and shall include property separated by an alley. The term “abutting” implies a closer proximity than the term “adjacent.”

ACCESSORY USE OR BUILDING - One that:

1. Is customary and clearly incidental and subordinate to the principal building or principal use.
2. Serves exclusively the principal building or principal use.
3. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served.
4. Is located on the same zoning lot as the principal building or principal use served, with the single exception of the accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.
5. An accessory use, unless specifically listed otherwise, shall be within the same building as the primary use. All accessory uses shall have their operations internal to the primary use. However, uses such as day care operations within places of worship, offices, or other uses may have outdoor play areas that are to the same standards as if they were a principal use.
6. An accessory building is detached from the principal building.

ACTIVITY - Any application for a permit under this ordinance or any development or use encompassed within the jurisdiction of this Ordinance.

ADULT ARCADE - Any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.

ADULT BOOKSTORE OR VIDEO STORE - A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

1. Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.
2. Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.

ADULT CABARET - Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or seminudity.
2. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

**ADULT MOTION PICTURE THEATER** - A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.

**ADULT ORIENTED BUSINESS** - Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.

**ADULT SERVICE** - Dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.

**ADULT THEATER** - A theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

**AGRICULTURE** - The production, keeping, or maintenance, for sale, lease or personal use, of plants and land useful to man, including but not limited to: forages sod crops; grains and seed crops; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

**AIRPORT** - A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including Heliports.

**ALLEY** - An alley is a public right-of-way which affords only a secondary means of access to abutting property.

**ANTENNA** - Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.

**AQUIFER** - A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

**ARCADE** - A building or structure, open to the public, which contains coin operated games and similar entertainment and amusement devices, as the primary use or with five (5) or more games as an accessory use.

**ASSISTED-LIVING CENTER AND CONGREGATE CARE FACILITY** - A licensed health care facility to provide 24-hour supervision of the frail elderly that provide rooms, meals, personal care, and supervision of self-administrated medication. They may also provide services, such as recreational activities, financial services, and transportation.

**AUTOMOBILE STORAGE YARD** - The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.

**AWNING/CANOPY** - A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

**BED AND BREAKFAST ESTABLISHMENT** - A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

**BOARD OF ADJUSTMENT** - Public and quasi judicial agency charged with duty to hear and determine zoning appeals.

**BOARDINGHOUSE** - A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

**BROADCAST TOWER** - Shall mean a structure, not including offices or studio, for the transmission of radio or television broadcast communications.

**BUILDABLE AREA** - The three-dimensional space within which a building is permitted to be built on a lot and which is defined by maximum height regulations and yard setback regulations.

**BUILDING** - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground or attached to the ground with a fixed location on the ground.

**BUILDING, DETACHED** - A building surrounded by open space on the same lot.

**BUILDING, HEIGHT** - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten feet of the structure.

**BUILDING LINE** - A line parallel to the curb line touching that part of a building.

**BUILDING PERMIT** - A document signed by the Zoning Administrator of the City of Brandon as a condition precedent to the commencement of a use or the erection, construction, re-

construction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use, or building complies with the provisions of the municipal zoning ordinance or an authorized variance therefrom.

**BUILDING, RESIDENTIAL** - A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings;
2. Single-family attached dwellings;
3. Multiple-family dwellings (including apartment hotels);
4. Lodging houses; and
5. Fraternity and sorority houses.

**BUS PASSENGER TERMINAL** - A place where the transfer of people between modes of transportation takes place.

**BUS/TRUCK TERMINAL** - An area and building where buses, trucks, and cargo is stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of vehicles is performed.

**BUS/TRUCK WASH** - Any building or portions thereof used for washing buses and/or trucks.

**CAMPGROUND, TRAVEL TRAILER PARKING AREA** - 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.

**CAR WASH** - Any building or portions thereof used for washing automobiles.

**CERTIFICATE OF OCCUPANCY** - A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

**CHANGE OF USE** - Substitution of one thing for another specifically regarding use of land or use of a building.

**CHURCH** - A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

**CITY** - Means City of Brandon, South Dakota.

**CITY COUNCIL** - Means Board of City Council Members, Brandon, South Dakota.

**CLINIC** - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, optometrists, social workers, etc., and where patients are not usually lodged overnight.

**CLUB** - 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.

**COMMERCIAL PARKING LOT/FACILITY** - An approved open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored for a fee.

**COMMISSION** - Means City Planning Commission of Brandon, South Dakota.

**COMPREHENSIVE PLAN** - The adopted long-range plan intended to guide the growth and development of the community and region, including analysis, recommendations and proposals of the community's population, economy, housing, transportation, community facilities, and land use.

**CONDITIONAL USE PERMIT** - A permit issued by the Planning Commission stating that a Conditional Use complies with the conditions and standards set forth in this Ordinance.

**CONTRACTOR'S SHOP AND STORAGE YARD** - Use of land or buildings for storage and preparation of materials used by that same individuals in conducting the business of construction and repair work, generally completed at some other on-site location.

**CONTAMINANT** - Any "regulated substance," as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

**CONVENT AND MONASTERY** - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in adjacent institutions.

**CURB LINE** - The outside lines of the pavement or roadway.

**DAY CARE** - The providing of care and supervision of a child or children/adults as a supplement to regular parental/home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

**DAY CARE, CENTER** - Is normally in a facility used only for providing day care, nursery, or pre-kindergarten services, and is limited in number over twelve (12) by the square footage of usable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per person outdoors.

DAY CARE, FAMILY - Care is done in a family home, and the number of persons cared for is limited to a maximum of six (6) adults or six (6) children under fourteen. Included in that count are the providers' own children six (6) years and under. See (Home Occupation).

DAY CARE, GROUP - Is normally in a family home. The number of persons cared for is seven (7) to twelve (12) adults or children under the age of fourteen including the provider's own children six (6) years and under.

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

DEVELOPMENT - The carrying out of any construction, reconstruction, alteration of surface, structure, change or land use or intensity of use, and including but not limited to the deposit of refuse, solid or liquid waste, any mining or drilling operation, or work relating to the creation of a road, street, or parking area.

DISTILLATION OF PRODUCTS - A building or premises used for the purification and concentration of a substance by volatilization or evaporation and subsequent condensation.

DISTRICT - A part, zone, or geographic area of the City of Brandon within which certain zoning or development regulations apply.

DRIVEWAY - A surfaced private road that gives access from a public roadway to a garage, side yard or rear yard.

DRIVE-UP SERVICE WINDOW/DEVICE - An establishment which accommodates the patron's motor vehicles, from which the occupants may obtain or receive a service or obtain a product through a service window or automated device.

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses.

DWELLING, SINGLE FAMILY ATTACHED – A building, or portion thereof, containing three (3) or more dwelling units joined by common walls, with each dwelling located on a separate lot.

*(Amended: Ordinance No. 538, 10-25-2016)*

DWELLING, MULTIPLE-FAMILY - A building, or portion thereof, containing three (3) or more dwelling units located on a single lot.

*(Amended: Ordinance No. 538, 10-25-2016)*

DWELLING, SINGLE FAMILY DETACHED - A dwelling which is designed for and occupied by not more than one family and is surrounded by yards and is not attached to any other dwelling by any means.

DWELLING, SINGLE FAMILY FARM - Single family dwelling located on a farm which is used or intended for use by the farm's owner or relative of the owner or a person employed thereon.

DWELLING, TOWNHOUSE - One of a group or row of two or more single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

DWELLING, TWIN HOME – A two (2) family dwelling unit, having a common wall and is platted into two separate lots.

*(Amended: Ordinance No. 538, 10-25-2016)*

DWELLING, TWO FAMILY (DUPLEX) – A building containing only two (2) dwelling units located on a single lot.

*(Amended: Ordinance No. 538, 10-25-2016)*

DWELLING UNIT - One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DWELLING UNIT, OWNER OCCUPIED – One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of the business owner's family to maintain a household.

*(Amended: Ordinance No. 538, 10-25-2016)*

ELECTRICAL SUBSTATION - A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

EXISTING ANTENNA SUPPORT STRUCTURE - Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

FAMILY - One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three adults who are unrelated by blood or law. In addition to the persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title:

1. A person residing with the family for the purpose of adoption;
2. Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency;
3. Not more than four persons eighteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency;
4. Any persons living with the family at the direction of a court; and
5. Twenty-four hour supervised living of persons with physical or mental disabilities, but not including group homes for drug and alcohol rehabilitation or halfway houses for persons adjudicated by a court. Such residential facilities shall be licensed by the State of South Dakota and proof of such licensing shall be required prior to zoning certificate approval.

FARM - A parcel of land used for agricultural purposes, with a minimum of 10 acres in size.

FARM IMPLEMENT DEALER - The use of any building or land area for the display and sale of new and used farm implements, including any warranty repair work and other repair service conducted as an accessory use.

FARMSTEAD - The area of a farm in which the out buildings sit and is normally protected by a grove(s) and not used for crops or grazing.

FARM STORE/FEED STORE - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agri-chemicals.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOR AREA - The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.

FREESTANDING SIGN (Ground Sign) - A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.

FRONTAGE - That side of a lot abutting on a street; the front lot line.

FRUIT/VEGETABLE CANNING AND PROCESSING - A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

GARAGE, ATTACHED PRIVATE - An enclosed building that is connected to and shares a common wall with the principal building.

**GARAGE, PRIVATE** - An accessory building designed or used for the storage of motor vehicles, excluding all commercial vehicles, owned and used by the occupants of the building to which it is accessory.

**GARDEN CENTER** - Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

**GAS DISPENSING STATION** - Any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories, or testing may be done. Gasoline pumps and islands shall be located more than 12 feet from the nearest property line.

**GENERAL MANUFACTURING** - Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.

**GOLF COURSE** - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters.

**GRADE** - The average elevation of the land around a building.

**GRAIN TERMINAL** - A facility for the storage of agricultural grains.

**GREENHOUSE** - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be 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.

**GROUNDWATER** - Subsurface water that occurs in soils and geologic formations that are fully saturated.

**HARD SURFACED** – constructed of solid concrete or asphalt, or of landscape pavers.

**HAZARDOUS MATERIAL** - Any contaminant as defined in this ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022 as in effect on the date of publication of this ordinance.

**HOME OCCUPATION** – A Home occupation is any such business activity that takes place in a home occupied as a primary residence and is incidental and secondary to the residential use of the premises.

**HOMEOWNERS' ASSOCIATION (HOA)** – An organization comprised of separate lots in a subdivision, planned community, or condominium that makes and enforces rules for the properties in its jurisdiction.

*(Amended: Ordinance No. 538, 10-25-2016)*

**HOSPITAL** - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

**HOTEL, MOTEL, MOTOR COURT, MOTOR LODGE, OR TOURIST COURT** - Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

**HUB** - The center of a wind generator rotor, which holds the blades in place and attaches to the shaft.

**JUNKYARD** - Any lot, land, parcel or portion thereof, used for the storage, wrecking, dismantling, salvage, collection, processing, purchase, sale, or exchange of abandoned or discarded vehicles, goods, waste, and scrap materials, including but not limited to: two or more abandoned or inoperable motor vehicles, waste paper, rags, glass, tires, wood, lumber, appliances, machinery, or automotive and mechanical parts. A junkyard does not include operations entirely enclosed within buildings.

**KENNEL, COMMERCIAL** - Any premise, or portion thereof, where dogs, cats, and other household animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale. Kennel facilities include kennels, animal runs, enclosures, and/or any other building used for the keeping or housing of such animals.

*(Amended: Ordinance No. 538, 10-25-2016)*

**KENNEL PRIVATE** – Any premises, or portion thereof, where dogs, cats, and other household animals are kept as pets and not used for any purpose other than companionship for their owners. Kennel facilities include kennels, animal runs, enclosures, and/or any other building used for the keeping or housing of such animals.

*(Amended: Ordinance No. 538, 10-25-2016)*

**LANDSCAPED AREA/LIVING GROUND COVER** - An area that is permanently devoted and maintained in blue grass/ creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

**LIGHT MANUFACTURING** - Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

LOADING SPACE - A space within the main building or on the same lot adjacent to the building for the standing, loading, or unloading of trucks.

LOT – A parcel of land occupied or intended for occupancy by a use or uses permitted in this ordinance. It shall have its principal frontage upon a street or an officially approved access.

*(Amended: Ordinance No. 538, 10-25-2016)*

LOT AREA - The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT COVERAGE - The portion of a lot or building site which is occupied by any building or structure, excepting paved areas and walks, regardless of whether said building or structure is intended for human occupancy or not.

LOT, DOUBLE FRONTAGE - A lot which abuts a street on two opposite sides (not a corner lot).

LOT, FRONTAGE - The length of the front lot line measured at the street right-of-way line.

LOT, INTERIOR - A lot other than a corner lot.

LOT LINE - A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the office of the County Register of Deeds; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the effective date of this ordinance.

LOT USER - A billing unit for purposes of utilities consisting of (a) for non-apartment residences a residence that maintains a separate water and/or electrical meter; or (b) for apartment residences the total number of apartment units divided by four (4).

MANUFACTURE OF: ACID, ALCOHOL, AMMONIA, ASPHALT, BLEACH, CEMENT,

CHLORINE, DYESTUFFS, EXPLOSIVES, FERTILIZER, GLUE, GYPSUM, LIME, OILS, PLASTER OF PARIS, SHELLAC, SIZING, TURPENTINE OR YEAST, ETC. –

Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

**MANUFACTURED HOME** - A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.

For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required. This definition does not include prefabricated homes constructed under the International Residential Code (IRC).

**MANUFACTURED HOME PARK, LICENSED** - A contiguous parcel of land operated as a unit, under the same ownership where six or more lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the City of Brandon.

**MASSAGE ESTABLISHMENT** - An establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision does not apply to:

1. Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.
2. Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.
3. Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.
4. Physical therapists licensed pursuant to SDCL Ch. 36-10.
5. Athletic trainers licensed pursuant to SDCL Ch. 36-29.
6. Massage therapists licensed pursuant to SDCL Ch. 36-35.
7. Chiropractors licensed pursuant to SDCL Ch. 36-5.

**MORTUARY** - A place for the storage of human bodies prior to their burial or cremation.

**MOTEL** - A motel is an establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. See (Hotel/Motel).

**MOTOR VEHICLE** - Any vehicle which is designed to travel along the ground or in the water and shall include but not be limited to automobiles, vans, buses, motorbikes, trucks, trailers, go carts, golf carts, boats, ATVs, snowmobiles, and campers.

**MOTOR VEHICLE REPAIR** - Any building or premises involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

**MOTOR VEHICLE, COMMERCIAL** - Any vehicle which has more than 16 square feet of signage or which is adapted, designed, equipped, and used to perform a specific commercial function and which does not meet the definition of Motor Vehicle, Personal/Passenger as defined herein.

**MOTOR VEHICLE, INOPERABLE** - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

**MOTOR VEHICLE, PERSONAL/PASSENGER** - Any car, pickup-truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal/passenger travel and has not been externally altered with features not customary to personal usage.

**MOTOR VEHICLE, RECREATIONAL** - Any vehicle which is adapted, designed, and equipped to facilitate leisure time activities including but not limited to the following: ATVs, boats, motor bikes, snowmobiles, along with trailers to haul said vehicles; RVs and travel trailers.

**MOTOR VEHICLE SALES, DISPLAY, AND RENTAL** - The use of any building, land area, or premises, for the display, sale, or rental of new or used motor vehicles, and including any warranty repair work and other repair service conducted as an accessory use. The sale or display of inoperable motor vehicles is not allowable as part of this use category, see "JUNKYARD."

**MOTOR VEHICLE SERVICE STATION** - Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or 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. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than 12 feet from the nearest property line.

**NEIGHBORHOOD UTILITY FACILITY** - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings, facilities and above ground structures that exceed 200 square feet of area) necessary for conducting a service by a government or a public utility.

**NONCONFORMING USE** - A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this Ordinance, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

**NONSTANDARD USE** - The category of nonconformance consisting of lots occupied by buildings or structures or uses that existed immediately prior to the effective date of this Ordinance that 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.

**NUDE MODEL STUDIO** - A place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other considerations. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:

1. A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.
2. A student must enroll at least three days in advance of a class in order to participate.
3. No more than one nude or seminude model is on the premises at any time.

**NUDE, NUDITY OR STATE OF NUDITY** - Any of the following:

1. The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.
2. A state of dress that fails to opaquely cover a human anus, genitals, or a female breast

below a point immediately above the top of the areola.

**NURSERY** - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See (Greenhouse).

**NURSING HOME** - An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**OFFICE BUILDING** - A building designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations. Broadcast stations, offices, and studios shall be considered to be office buildings; broadcast towers as defined in this title shall not be so considered.

**OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT** - Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

**ON-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT** - Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

**OUTDOOR STORAGE** - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of junkyard as defined herein.

**PARKING PAD** - An off-street hard surfaced area, enclosed or unenclosed, accessible and available for the parking of one or more motor vehicles, boats, trailers, and/or the like.

**PARKING SPACE** - A hard-surfaced area, enclosed or unenclosed, sufficient in size to park one motor vehicle. A parking space must be provided an unobstructed means of access, and all spaces shall meet the minimum criteria as prescribed by City Ordinance.

**PARTY WALL** - A common shared wall between two separate structures, buildings, or dwelling units.

**PERMANENT FOUNDATION** - A continuous foundation around the perimeter of a structure, which, at bottom, extends no less than 48 inches below the surface of the ground.

**PERMITTED USES** - Any permissive or conditional uses allowed in a zoning district subject to the restrictions applicable to that zoning district.

**PERSONAL SERVICES** - Establishments primarily engaged in providing services involving the care of a person or their apparel. Including, but not limited to: laundry or dry cleaning, receiving station; garment services; coin-operated laundries; photographic and art studios; beauty shops; barber shops; shoe repair; reducing salons and health clubs; clothing rental.

**PLACE OF WORSHIP** - A structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features.

**PLANNING COMMISSION** - The duly designated planning board of the municipality responsible for reviewing and approving applications for development and preparation of master plans and ordinances.

**PRINCIPAL BUILDING** - A building in which is conducted the primary or predominant use of the lot on which it is located.

**PRINCIPAL USE** - The primary or predominant use or building of any lot.

**PRINTING PLANT** - A commercial printing operation which makes reproductions involving the use of a printing press and the making of photographic plates.

**PRIVATE CLUB** - A group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

**PROJECTING SIGN** - A sign other than a wall sign which is attached to and projects from a structure or building face.

**PROPERTY LINE** - See (Lot Line).

**PUBLIC UTILITY FACILITIES** - See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings, structures, and facilities that exceed 200 square feet in area are allowable.

**QUARRY** - A surface excavation used for the removal of rock, stone, sand, gravel, and fill dirt for sale or use off-site and includes sifting, crushing, and washing and bagging.

**RECREATION FACILITY, COMMERCIAL** - A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive and operated as a business and open to the public for a fee.

**RECYCLABLE MATERIALS** - Materials or products that may be readily separated from the solid waste stream and may be used or reused as a substitute for raw materials or other items, including but not limited to, aluminum, paper, glass, steel, and plastic.

**RECYCLING COLLECTION FACILITY** - An established facility where recyclable materials are collected for shipment off site, with no processing such as grinding or crushing of the materials. Fully enclosed automated self-service aluminum collection machines not more than 750 square feet are considered recycling collection facilities regardless of whether they contain a crusher or grinder. Facilities which handle recyclable hazardous materials, or waste petroleum

products as a primary or substantial portion of their business are not included.

**RECYCLING PROCESSING FACILITY** - An established facility where recyclable materials are collected and/or processed for shipment off site, including processing operations such as grinding or crushing of the materials. No on-site sales of materials, nor salvage-type automobiles may be processed at these types of facilities. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

**RESIDENCE** - A permanent dwelling place.

**RETAIL SERVICES 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 establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services but does not include on-sale alcoholic beverage establishments.

**RESTAURANT** - An establishment where food and drink is prepared, served, and consumed primarily within the principal use.

**ROOF SIGN** - Any sign erected upon, against, or directly above a roof or on top of the parapet of a building.

**ROOMING/BOARDING HOUSE** - See (Boarding House).

**SCHOOL, ELEMENTARY OR SECONDARY (HIGH SCHOOL)** - Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

**SEMINUDE** - A state of dress in which clothing covers no more than the genitals, pubic region, and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

**SETBACK/SETBACK LINE** - That line that is the required minimum distance from any lot line that establishes the area within which the principal use must be erected or placed.

**SHALLOW/SURFICIAL AQUIFER** - An aquifer in which the permeable media (sand and gravel) starts near the land surface immediately below the topsoil. The shallow aquifer is further defined as an aquifer within fifty (50) feet or less below the land surface within fifteen (15) feet or less of continuous overlying, extremely low permeability material, such as clay, till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this ordinance; or, the aquifer is greater than fifty (50) feet but less than one hundred (100) feet below the land surface with thirty (30) feet or less of continuous overlying low to extremely low permeability geological material that may be a combination of weathered and unweathered till, shale, or till and shale.

**SIGN** - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include: temporary signs not exceeding 9 square feet, national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government or non-profits.

**SIGN AREA** - The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

**SIGN FACE (DISPLAY SURFACE)** - The entire area of sign on which copy could be placed. See (“Sign Area”).

**SIGN (OFF PREMISE)** - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**SIGN (ON PREMISE)** - A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

**SIGN STRUCTURE** - Any structure which supports, has supported, or is capable of supporting a sign.

**SIGN, WALL** - A sign attached to or erected against a wall of a building and projecting no more than twelve (12) inches with the face in a parallel plane to the plane of the building wall.

**SLAUGHTERHOUSE** - A facility for the slaughtering and processing of animals and the refining of their by-products.

**SOLID WASTE TRANSFER FACILITY** - A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

**SPECIFIED ANATOMICAL AREAS** - Any of the following:

1. A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.
2. Male genitals in a discernibly turgid state even if completely and opaquely covered.

**SPECIFIC SEXUAL ACTIVITIES - Any of the following:**

1. Human genitals in a state of sexual stimulation or arousal.
2. Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.
3. Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.
4. Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.

**STORY** - 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 (6) feet above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

**STREET** - A public way which affords the principal means of access to abutting property.

**STREET, ARTERIAL** - A principal traffic artery, more or less continuous across the city, which acts as a principal connecting street with state and federal highways and includes each street designated as an arterial street on the Major Street Plan.

**STREET, COLLECTOR** - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.

**STREET, LOCAL** - A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.

**STRUCTURAL ALTERATION** - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or any complete rebuilding of the roof or the exterior walls.

**STRUCTURE** - Anything constructed or erected on the ground or attached to the ground with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures, include buildings, walls, decks, dams, manufactured homes, and sheds.

**TANK FARM** - An open air facility containing a number of above-ground, large containers for the bulk storage in liquid form of petroleum products.

**TELECOMMUNICATIONS TOWER** - A self-supporting lattice, guyed-lattice, or monopole structure which supports wireless communications facilities. The term includes new and existing towers that are used for services such as microwave, common carrier, cellular telephone, personal communication services, two-way radio paging, and other similar services. The term telecommunications tower does not include amateur radio operators' equipment, as licensed by the Federal Communications Commission.

**TEMPORARY SIGN** - A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic, wallboard, or other like materials, and intended to be displayed for a limited period of time.

**TELECOMMUNICATIONS TOWER HEIGHT** - The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.

**TELECOMMUNICATIONS TOWER SITE** - The telecommunications tower site shall be the lot of record for which the telecommunications tower is located.

**TOTAL HEIGHT** - The highest point above natural grade reached by a rotor tip or any other part of a wind turbine.

**TOWER** - A vertical structure that supports a wind turbine.

**TRAVEL TRAILER** - Means any of the following:

1. **Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, 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 any integral part of a self-propelled vehicle.
4. **Camping Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

**TREE, REQUIRED** - A tree which is required by this ordinance and meets or exceeds the minimum specifications according to tree type.

**USE, ACCESSORY** - See (Accessory Building or Use).

**USE, PERMITTED** - A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in

which such use is located.

**USE, PRINCIPAL** - A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use includes off-premise advertising.

**WAREHOUSE** - A building used primarily for the storage of goods and materials.

**WASTE** - Any garbage, refuse, sludge from a waste treatment plant, waste supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

**WHOLESALE MERCHANDISING /WHOLESALE TRADE** - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIND ENERGY CONVERSION SYSTEM (WECS)** - An electrical generating facility that consists of a wind turbine, feeder line and/or other associated controls and may include a tower.

**WIND TURBINE** - A machine used to produce electricity by converting the kinetic energy of wind to electrical energy. A wind turbine consists of a rotor, nacelle, tower and supporting cables and foundation.

**WIRELESS COMMUNICATIONS FACILITIES** - Any cables, wires, lines, wave guides, antennas, antenna arrays, and any other equipment associated with the transmission or reception of telecommunications signals which a person seeks to locate or have installed upon or near a telecommunications tower or antenna support structure.

**YARD, FRONT** - A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

**YARD, REAR** - A yard extending a full width of the lot between a principal building and the rear lot line.

**YARD, REQUIRED FRONT** - The required front yard shall extend across the front of a lot between the said property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.

**YARD LINE** - See (Building Line).

**YARD, REQUIRED REAR** - The required rear yard shall extend across the rear of a lot between the said property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

**YARD, REQUIRED** - Shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this title.

**YARD, REQUIRED SIDE** - The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.

**YARD, SIDE** - A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line.

**ZONE** - A specifically delineated area or district of the City of Brandon within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.