

TITLE XV: LAND USAGE

Chapter

150. BUILDINGS

151. SUBDIVISIONS

152. ZONING

153. HISTORIC PRESERVATION

CHAPTER 150: BUILDINGS

Section

General Provisions

- 150.01 Statutory authority
- 150.02 Short title
- 150.03 Statement of purpose
- 150.04 Jurisdiction
- 150.05 Definitions
- 150.06 Permit fees

Construction Standards

- 150.20 Building Code adopted
- 150.21 Amendments to Building Code
- 150.22 Building contractor licensing
- 150.23 Electrician or plumber licensing
- 150.24 Schedule of permit fees
- 150.25 Conflicts
- 150.26 International Property Maintenance Code

Mechanical Standards

- 150.40 International Mechanical Code adopted
- 150.41 Prohibited locations
- 150.42 Fees

Fire Prevention Code

- 150.55 International Fire Code adopted
- 150.56 Conflicts
- 150.57 Enforcement
- 150.58 Definitions
- 150.59 Permits
- 150.60 Fees
- 150.61 Amendments made to the International Fire Code
- 150.62 Modifications
- 150.63 Appeals
- 150.64 Storage of inflammable or explosive materials

International Existing Building Code

150.75 Adopted

150.99 Penalty

GENERAL PROVISIONS**' 150.01 STATUTORY AUTHORITY.**

This chapter is enacted under the authority to adopt technical codes, SDCL ' 9-19-7.
(Ord. 2012-03, passed 8-13-2012)

' 150.02 SHORT TITLE.

This chapter shall be known and cited as the AWhitewood Building, Fire and Life Safety Ordinance@.
(Ord. 2012-03, passed 8-13-2012)

' 150.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to adopt certain technical codes that regulate and govern the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the city; providing for the issuance of permits and collection of fees therefor repealing Titles III and IV of the city=s prior code and replacing this chapter with the Ord. 2016-01 and repealing all other ordinances and parts of ordinance in conflict therewith.
(Ord. 2012-03, passed 8-13-2012)

‘ **150.04 JURISDICTION.**

This chapter shall be in effect within the corporate limits of the city and any other joint powers area prescribed by law.

(Ord. 2012-03, passed 8-13-2012)

‘ **150.05 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF APPEALS. The Whitewood Common Council who shall sit as the Board of Appeals for all the adopted Technical Codes.

BUILDING CODE OFFICIAL, FIRE CODE OFFICIAL, CODE OFFICIAL, BUILDING INSPECTOR and AUTHORITY HAVING JURISDICTION. Shall be used interchangeably throughout this chapter and the adopted Technical Code. The City Building Official shall have all duties and powers described within the adopted technical codes and shall enforce the codes.

CORPORATE COUNCIL. The City Attorney.

JURISDICTION. The City of Whitewood, South Dakota.
(Ord. 2012-03, passed 8-13-2012)

‘ **150.06 PERMIT FEES.**

(A) The following fees are established based on the valuation of the project proposed and other inspections and fee described herein.

<i>Project Valuation</i>	<i>Permit Fee</i>
\$1 to \$500	\$24
\$501 to \$2,000	\$24 for the first \$500, plus \$3 for each additional \$100 or fraction thereof, up to and including \$2,000
\$2,001 to \$40,000	\$69 for the first \$2,000, plus \$11 for each additional \$1,000 or fraction thereof, up to and including \$40,000
\$40,001 to \$100,000	\$487 for the first \$40,000, plus \$9 for each additional \$1,000 or fraction thereof, up to and including \$100,000
\$100,001 to \$500,000	\$1,027 for the first \$100,000, plus \$7 for each additional \$1,000 of fraction thereof, up to and including \$500,000
\$500,001 to	\$3,827 for the first \$500,000; plus \$5 for each additional

Whitewood - Land Usage

<i>Project Valuation</i>	<i>Permit Fee</i>
\$1,000,000	\$1,000 or fraction thereof, up to and including \$1,000,000
\$1,000,001 to \$5,000,000	\$6,327 for the first \$1,000,000, plus \$3 for each additional \$1,000 or fraction thereof, up to and including \$5,000,000
\$5,000,001 and over	\$18,327 for the first \$5,000,000, plus \$1 for each additional \$1,000 or fraction thereof

(D) The Building Official is authorized to require proof of final project valuation whenever there is a question of the declared project value.

(E) Other inspections and fees:

- (1) Short notice inspections per hour: \$50, minimum of one hour;
- (2) Re-inspection fees per hour: \$25 for the third or more reinspection;
- (3) One-time inspection fee for change of occupancy in commercial buildings: \$30;
- (4) Additional plan review required by changes, additions or revisions to approved plans (minimum charge: one-half hour), an hour, per hour: \$25; and
- (5) Renewal of building permit (project dormant for 180 days or more): \$50.
(Res. 2012-03, passed - -; Ord. 2004-03, passed 5-17-2004)

CONSTRUCTION STANDARDS**150.20 BUILDING CODE ADOPTED.**

The Common Council hereby adopts the 2015 International Residential Code for One- and Two-Family Dwellings, Chapters 1-24 and 44, the 2015 International Building Code as published by the International Code Council. A copy of the code shall be on file in the office of the City Building Official.

(Ord. 2012-03, passed 8-13-2012; Ord. 2016-01, passed - -2016)

150.21 AMENDMENTS TO BUILDING CODE.

(A) The following amendments to the International Residential Code for One- and Two-Family dwellings adopted by Section 6-26 are made and incorporated into the code:

<i>CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA</i>	
<i>City of Whitewood, SD</i>	
Ground Snow Load	43
Wind Speed	115
Seismic Design Category	A
Subject to Damage From:	
Weathering	Moderate
Frost Line Depth	42"
Termite	None to slight
Decay	None to slight
Winter Design Temperature (f)	- 7
Ice Shield Under-underlayment Required	Yes
Flood Hazards	NFIP
Air Freezing Index	2,000
Mean Annual Temperature	42

(B) The following amendments to the International Residential Code for One-and Two-Family Dwellings adopted by Section 1 are made and incorporated into the code:

(1) IRC Chapter 1, ' R105.2, Work exempt from building permit is hereby amended to read as follows:

Building Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

- a. One-story detached accessory structures provided the floor area does not exceed 200 square feet.
- b. Retaining walls that are not over four feet in height measured from grade on the exposed side to the top of the wall, unless supporting a surcharge.
- c. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one.
- d. Driveways.

Whitewood - Land Usage

- e. Painting, papering, tiling carpeting, cabinets, counter tops and similar finish work.
- f. Above ground prefabricated swimming pools.
- g. Swings and other playground equipment.
- h. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
- i. Gutters, downspouts and storm windows.
- j. Window replacement where the rough opening is not altered.
- k. Structures or work performed on properties of the government of the United States of America or the State of South Dakota.

(2) IRC Chapter 3, ' R302.5.1, Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than one and three-eighths inches in thickness, solid or honeycomb-core steel doors not less than one and three-eighths inches thick, or 20-minute fire-rated doors.

(3) IRC Chapter 3, ' 313, Automatic fire sprinkler systems is hereby deleted. IRC Chapter 3, ' R313.2.1, Design and installation, is hereby amended. When installed an automatic residential fire sprinkler shall be systems designed and installed in accordance with ' P2904 or NFPA 13D.

(4) IRC Chapter 4, ' 403.1.4.1, exception 1, Frost Protection of freestanding accessory structures with an area of 1,024 square feet or less, of light-framed construction, with an eave height of ten feet or less shall not be required.

(5) IRC Chapter 5, ' R302.13, Fire protection of floors is hereby deleted.

(6) 2015 International Residential Code.

(7) Chapter 11 Energy Efficiency.

AMENDMENTS TABLE N1102.1 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a										
Climate Zone	Fenestration U-factor [Btu/hr - ft ² degrees F]	Skylight ^b U-Factor	Glazed Fenestration SHGC	Ceiling R-Value ^d	Wood Frame Wall R-Value	Mass Wall R-Value ^k	Floor R-Value	Basement ^c Wall R-Value	Slab ^d R-Value and Depth	Crawl Space ^c Wall R-Value
6A	0.32	0.55	NR	49	19 or 13 + 5 ^h	15/19	30 ^e	10/13	10, 42 inches	10/13

Notes to Table:

AMENDMENTS**TABLE N1102.1****INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a**

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| <p>a. R-values are minimums. U-factors and solar heat gain coefficient (SHGC) are maximums.</p> <p>b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.</p> <p>c. The first R-value applies to continuous insulation which is allowed to be applied at the time of finishing the basement, the second to framing cavity insulation; either insulation meets the requirement.</p> <p>d. R-5 shall be added to the required slab edge R-values for heated slabs.</p> <p>g. Or insulation sufficient to fill the framing cavity, R-19 minimum.</p> <p>h. "13+5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25% or less of the exterior, R-5 sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25% of exterior, structural sheathing shall be supplemented with insulated sheathing of at least R-2.</p> <p>k. The second R-value applies when more than half the insulation is on the interior.</p> <p>l. The minimum R-value for ceilings is further based on a minimum 6-inch (152 mm) heel height to allow the ceiling insulation to extend over the top plate.</p> |
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(9) IRC Chapter 11, Section N1102.4.1.2 (R402.4.1.2) Testing is hereby deleted.

(10) IRC Chapter 11, Section N1104.1 (R404.1) Lighting equipment (Mandatory). Not adopted by the City.

(C) The following amendments to the International Building Code adopted by Section 6-26 are made and incorporated into the code:

(1) IBC Chapter 1, Section R105.2 ,Work exempt from permit is hereby amended to read as follows: Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

- a. One-story detached accessory structures provided the floor area does not exceed 120 square feet.
- b. Retaining walls that are not over four feet in height measured from grade on the exposed side to the top of the wall, unless supporting a surcharge.
- c. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one.
- d. Sidewalks and driveways.
- e. Painting, papering, tiling carpeting, cabinets, counter tops and similar finish work.
- f. Above ground prefabricated swimming pools.
- g. Swings and other playground equipment.
- h. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
- j. Gutters, downspouts, and storm windows.

Whitewood - Land Usage

- i. Window replacement where the rough opening is not altered.
- k. Structures or work performed on properties of the government of the United States of America or the State of South Dakota.

(2) IBC Chapter 1, Section 113, Board of Appeals is hereby amended to read as follows: The Common Council shall be the Board of Appeals.
(Ord. 2012-03, passed 8-13-2012; Ord. 2016-01, passed - -2016)

150.22 BUILDING CONTRACTOR LICENSING.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONSTRUCTION. Includes, but is not limited to, cement or concrete contracting; masonry contracting; carpenter contracting; excavation contracting; all building trade contracting which includes within limitation to electrical, plumbing, roofing, painting, remodeling, siding, rough framing; all phases of new construction; alterations, additions, repairs and demolition of structures; street, sidewalk and pavement contracting and any items requiring a permit within the licensing jurisdictional limits of the city.

CONTRACTOR. Any person, firm or corporation who is engaged in the act of construction, supervision of construction, or excavation on any property within the licensing jurisdiction of the city. A licensed contractor shall be required on all construction other than that which is owned and occupied by permittee as his or her primary residence or is an existing commercial structure under his or her ownership.

(B) *License required.*

(1) It shall be unlawful to engage in business in the city as a contractor without first having obtained a license, unless the construction is on the permittee's primary residence or on an existing commercial structure under his or her direct ownership; however, if the improvements to the commercial property constitute a structural improvement, a licensed contractor will be required, regardless of ownership.

(2) No licensed contractor shall allow their name to be used by any other person directly or indirectly, either to obtain a building permit or to perform work outside their personal supervision. A license is not assignable and shall be valid only for the individual/company in whose name it is issued.

(3) Application shall be made and fee shall be paid to the City Finance Office prior to work commencing on any project. The City Finance Office shall only issue a license after receiving a completed license application, showing required proof of insurance (see division (G) below) and all fees/penalties (see division (C) below) are paid in full.

(C) *Fees.*

(1) The initial fee, as well as the annual renewal fee, for said contractor=s license shall be set by resolution of the Common Council. All licenses shall take effect when issued and shall terminate on December 31 in the year for which issued. The license charged shall be paid on the basis of a full year; however, if the license is not renewed prior to the expiration date and the contractor has a job in progress, the penalty shall be \$150, plus the cost of the license renewal for the current year.

(2) Any person who has a valid contractor=s license shall not be required to secure an additional license for other building trades with the exception of electricians and plumbers.

(D) *Subcontractors.* Any person doing business as a subcontractor shall be construed as engaged in the business of construction for which a license is required by this subchapter.

(E) *Compliance with regulations.* It shall be the duty of all contractors to comply with all ordinances relating to the construction of buildings or other structures, to the construction of streets or sidewalk pavements, and all laws or ordinances pertaining to regulating the activities engaged in.

(F) *Revocation of license.* Any contractor=s license may be revoked by the Planning and Zoning Commission for repeated violations of any ordinance relating to the construction of buildings, the use of streets or the replacing of streets, sidewalks or parkways, or any other ordinance relating to the work performed by such contractor. Such revocation may be in addition to any fine imposed for violating this subchapter. Revocation of a contractor=s license may be appealed to the Common Council at the next regular Council meeting. The contractor shall contact the City Finance Officer to request an appeals hearing before the Common Council.

(G) *Insurance; bond.*

(1) No permit shall be issued for the construction of a building or structure in the city, or for the repair or alteration of any building, structure, street or right-of-way, unless a certificate or other proof is filed showing that the contractor is licensed by the city and carries worker=s compensation insurance with limits that comply with State Worker=s Compensation Law, being SDCL Title 62. Contractor must also carry public liability insurance with single limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate. Contractor shall also provide a state excise tax license number.

(2) Before any contractor doing any work for the city on any street or highway or on any building or premises owned by the city commences work, he or she shall file with the City Building Official a certificate or other proof showing that he or she carries worker=s compensation and public liability insurance as required by ordinance and the terms of his or her contract.

(Ord. 2012-03, passed 8-13-2012) Penalty, see ' 150.99

' 150.23 ELECTRICIAN OR PLUMBER LICENSING.

It shall be unlawful for any person to engage in business as an electrician or plumber or electrical contractor or plumbing contractor within the jurisdiction of the city unless such person is licensed

under state law. The electrician or plumber shall furnish to the Building Department satisfactory evidence of his or her license with the state before a contractor=s license can be issued.

(Ord. 2012-03, passed 8-13-2012) Penalty, see ' 150.99

Statutory reference:

Electrician=s permit and registration, see SDCL Ch. 36-16

National Standard=s Plumbing Code, see ' 36-25-17

' 150.24 SCHEDULE OF PERMIT FEES.

Pursuant to International Residential Code for One- and Two-Family Dwellings Chapter 1, ' R108 and International Building Code, Chapter 1, ' 109 a fee based on the total valuation for each building permit shall be paid to the City Financial Office. The fees shall be set by resolution of the Common Council.

(Ord. 2012-03, passed 8-13-2012)

' 150.25 CONFLICTS.

In the event of any conflict between the provisions of the adopted code and applicable provisions of the code of ordinances, state law or city ordinance, rule or regulation shall prevail and be controlling.

(Ord. 2012-03, passed 8-13-2012)

' 150.26 INTERNATIONAL PROPERTY MAINTENANCE CODE.

(A) The Common Council hereby adopts the 2015 International Property Maintenance Code to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and site maintenance of all property, buildings, and structures within this jurisdiction and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished.

(B) A copy of the code shall be on file in the office of the City Building Official.

(C) Sec. 101.1 Title. These regulations shall be known as the International Property Maintenance Code of the City of Whitewood, hereinafter referred to as Athis code@.

(D) Sec. [A] 111.2 Membership of board is hereby amended to read as follows: The Common Council shall be the Board of Appeals.

(E) Sec. 112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a

violation or unsafe condition, shall be subject to administrative citations through the code enforcement process.

(F) Sec. 302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight inches.

(G) Sec. 303 Swimming pools, spas and hot tubs: Sec. 303.2 Enclosures will not be required for above ground prefabricated swimming pools.

(H) Sec. 304.14 Insect screens. The period of time to require insect screens is hereby amended to read April 1 to September 30, inclusive.

(I) Sec. 602.3 Heat supply. The period of time to require the heating supply to maintain a minimum temperature of 68°F is hereby amended to read September 1 to April 30, inclusive.

(J) Sec. 602.4 Occupiable work spaces. The period of time to require the heating supply to maintain a minimum temperature of 65°F is hereby amended to read September 1 to April 30, inclusive.

(Ord. 2012-03, passed 8-13-2012; Ord. 2016-01, passed - -2016)

MECHANICAL STANDARDS

150.40 INTERNATIONAL MECHANICAL CODE ADOPTED.

The Common Council hereby adopts the 2015 International Mechanical Code published by the International Code Council.

(A) Sec. 508.1.1 Makeup Air Temperature. The temperature of makeup air shall not be more than 10 °F below the temperature of the air in the conditioned space.

(B) Exceptions:

1. Makeup air that is part of the air-conditioning system.
2. Makeup air that does not decrease the comfort conditions of the occupied space.

(Ord. 2012-03, passed 8-13-2012; Ord. 2016-01, passed - -2016)

150.41 PROHIBITED LOCATIONS.

No unvented or direct fired fuel-burning equipment shall be installed or used to provide comfort heating within any occupancy group other than Group S or U.

(Ord. 2012-03, passed 8-13-2012)

150.42 FEES.

All permit fees shall be based upon the valuation of the work being described and completed under the terms of the permit. The fees shall be set by resolution of the Common Council.
(Ord. 2012-03, passed 8-13-2012)

FIRE PREVENTION CODE**150.55 INTERNATIONAL FIRE CODE ADOPTED.**

The Common Council hereby adopts the 2015 International Fire Code, as published by the International Code Council. A copy of the code shall be on file in the office of the City Building Official.
(Ord. 2012-03, passed 8-13-2012; Ord. 2016-01, passed - -2016)

150.56 CONFLICTS.

In the event of any conflict between the provisions of the technical code adopted by this chapter and applicable provisions of this code of ordinances, state law or city ordinance, rule or regulation, provisions of this code of ordinances, state law or city ordinance, rule or regulations shall prevail and be controlling.
(Ord. 2012-03, passed 8-13-2012)

150.57 ENFORCEMENT.

(A) The City Fire Chief and the City Building Official shall have concurrent jurisdiction to enforce the International Fire Code and shall serve as the authority having jurisdiction as defined in the code and this subchapter.

(B) The Building Official and all members of the Fire Department shall serve as the Bureau of Fire Prevention of the city under the provisions of the International Fire Code.

(C) Every person who shall be present at a fire shall be subject and obedient to the orders of the Chief or such other person who may be in command at the time. All regularly appointed members of the department, who are hereby wearing insignias provided for, are hereby given the necessary special police power to interpret and enforce of the provisions of the International Fire Code.
(Ord. 2012-03, passed 8-13-2012)

' 150.58 DEFINITIONS.

For the purpose of the International Fire Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY HAVING JURISDICTION. The Whitewood Fire Chief and the Whitewood Building Official.

CORPORATION COUNSEL. The City Attorney for the City of Whitewood.

MUNICIPALITY. The City of Whitewood, South Dakota.
(Ord. 2012-03, passed 8-13-2012)

' 150.59 PERMITS.

All permits referred to in the International Fire Code shall be obtained from the Fire Chief or Building Official and all permits shall expire within one year after issuance or sooner if noted thereon. An additional permit may be obtained upon the expiration thereof.
(Ord. 2012-03, passed 8-13-2012)

' 150.60 FEES.

Permit fees shall be set by resolution of the Common Council.
(Ord. 2012-03, passed 8-13-2012)

' 150.61 AMENDMENTS TO THE 2015 INTERNATIONAL FIRE CODE.

(A) Section 307.1.2 Nuisance Fire and Smoke. If a fire is kindled and the smoke from such fire creates a nuisance or health hazard for neighboring property occupants, such fire shall be required to be extinguished.

(B) Exception: Prescribed burning for the purpose of reducing the impact of wildland fire and other such fires that may be permitted by those authorized in ' 150.57, above.
(Ord. 2012-03, passed 8-13-2012; Ord. 2016-01, passed - -2016)

' 150.62 MODIFICATIONS.

(A) The authority having jurisdiction shall have the power to modify any of the provisions of the International Fire Code upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are proximate difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done.

(B) The particulars of such modification when granted or allowed and the decision of the authority having jurisdiction thereon shall be entered upon the records of the city and a signed copy shall be furnished by the applicant.

(Ord. 2012-03, passed 8-13-2012)

' 150.63 APPEALS.

Whenever the authority having jurisdiction shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Common Council within 30 days from the date of the decision appealed.

(Ord. 2012-03, passed 8-13-2012)

' 150.64 STORAGE OF INFLAMMABLE OR EXPLOSIVE MATERIALS.

It shall be unlawful for any person, firm or corporation to pile, stack or cause to be piled or stacked, any hay, straw or other inflammable material within the fire limits of the city or to keep gun powder, giant powder, dynamite or other high explosives except for immediate use and only then when the same is to be used by persons experienced in the use of such explosives, within the city, provided that nothing in this section contained shall prohibit the keeping of reasonable supplies of gun powder or giant powder for sale. It shall be unlawful for any person, firm or corporation to deposit or keep within the fire limits of the city, outside of a proper building or enclosure, any paper, paper boxes or cases, packing cases or other inflammable material.

(Ord. 2012-03, passed 8-13-2012) Penalty, see ' 150.99

INTERNATIONAL EXISTING BUILDING CODE

' 150.75 ADOPTED.

The Common Council hereby adopts the 2015 International Existing Building Code published by the International Code Council.

(Ord. 2016-01, passed - -2016)

' 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) (1) *Generally.* Any person violating the provisions of ' 150.64 and failing to remove any such materials as are described in ' 150.63 within 48 hours after being notified to do so by the Chief of Police, Fire Chief or Building Official, shall be deemed guilty and, upon conviction thereof, shall be punished by a fine of not more than \$100.

(2) *Penalty for violation of the adopted technical codes.*

(a) Unless otherwise specified herein, any person who shall violate any of the provisions of the technical code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the Common Council or by a court of competent jurisdiction within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be punishable by a fine of not more than \$100. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
(Ord. 2012-03, passed 8-13-2012)

CHAPTER 151: SUBDIVISIONS

Section

General Provisions

- 151.001 Short title
- 151.002 Purpose
- 151.003 Administration
- 151.004 Definitions
- 151.005 Required improvements prerequisite to final approval

Procedure

- 151.020 Standard
- 151.021 Pre-application procedure
- 151.022 Procedure for conditional approval of preliminary tract
- 151.023 Submission of final plat

General Requirements; Minimum Standards of Design

- 151.035 General
- 151.036 Suitability of the land for subdivision development
- 151.037 Street extensions
- 151.038 Street arrangement
- 151.039 Alley arrangement
- 151.040 Easements
- 151.041 Blocks
- 151.042 Lots
- 151.043 Public sites and open spaces

Plats and Data

- 151.055 Required
- 151.056 Pre-application plans and data required
- 151.057 Data necessary for inclusion in the preliminary plat
- 151.058 Data for proposed improvements necessary for inclusion in the preliminary plat
- 151.059 Data and requirements for final plat

Surety Bond

- 151.070 Assurance; improvements and performance bond
- 151.071 Failure to complete improvements
- 151.072 Acceptance of dedication offers

Variances

- 151.085 General conditions
- 151.086 Application required
- 151.087 Planned unit development

GENERAL PROVISIONS

' 151.001 SHORT TITLE.

These ordinances shall be known and may be cited as AThe Land Subdivision Ordinance of Whitewood, South Dakota@.
(Prior Code, ' 17.0101)

' 151.002 PURPOSE.

The purpose of this chapter shall be to provide rules, regulations and standards to guide land subdivision in the state in accordance with the provisions of SDCL Ch. 11-3 and SDCL Ch. 11-6, and acts amendatory thereto in order to promote the public welfare of the county and any municipality that wishes to be included. It shall be administered to insure the orderly growth and development, the conservation, protection and proper use of land and adequate provision for circulation, utilities and services.
(Prior Code, ' 17.0201)

' 151.003 ADMINISTRATION.

The provisions of this chapter shall be administered by the Planning Commission of the city. Plats shall be reviewed by the Planning Commission, after which the Planning Commission shall submit its recommendation and the plats to the Common Council which shall have the final power to approve or disapprove the application.
(Prior Code, ' 17.0301)

151.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLEYS. Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

AUDITOR. The duly appointed Auditor of Whitewood.

COLLECTORS. Are streets which move traffic from local areas to minor arterials and provide direct access to abutting property.

COMPREHENSIVE PLAN. Any legally adopted part or element of the Comprehensive Plan of the city. This may include, but is not limited to, zoning ordinance, subdivision ordinance, Public Facilities Plan, Major Street Plan, Capital Improvements Program and Land Use Plan.

CUL-DE-SAC. A street with one end open for access and the other terminating in a vehicular turnaround.

DEVELOPER=S AGREEMENT. A contract between the entity and an applicant for a development project, in compliance with the city zoning and subdivision regulations. A **DEVELOPMENT AGREEMENT** is intended to provide assurance to the applicant that an approved project may proceed subject to the policies, rules, regulations and conditions of approval applicable to the project at the time of approval. In return, the entity may be assured that the approved project will contain elements and components that are in the best interests of the entity and will promote the public interests and welfare of the entity.

EASEMENT. A right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.

ENGINEER. The duly designated engineer acting in behalf of the City of Whitewood.

FINAL PLAT. A plat of a tract of land which meets the requirements of these regulations and is in form for recording in the office of the Register of Deeds.

GOVERNING BODY. The duly elected officials of a corporate political entity to whom authority is given to make, adopt and amend subdivision regulation.

LOCAL. Streets are those which provide access from individual residences to collector streets.

LOT. A parcel of land intended for transfer of ownership or for building development.

MAJOR ARTERIALS. Streets used for movement of large volumes of major traffic, which link the community to the regional network or roads.

MINOR ARTERIALS. Streets providing access to major arterials from heavy traffic generators such as the Central Business District, Industrial Park or Recreational Areas.

PLANNING COMMISSION. The Planning Commission of the City of Whitewood.

PLAT. A drawing or map on which a subdivision plan is presented during various stages for approval.

PRELIMINARY PLAT. The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this chapter, to permit the evaluation of the proposal prior to detailed engineering and design.

REGISTER OF DEEDS. The duly designated Register of Deeds of Lawrence County.

RIGHT-OF-WAY. The dedicated area of land for the purpose of constructing a public facility, such as a street, highway, alley, accessway or crosswalk.

SKETCH PLAN. The sketch map or maps of a proposed subdivision, drawn and submitted in accordance with the requirements of this chapter, to evaluate feasibility and design characteristics at an early stage in the planning.

STREET. A tract of land, dedicated to public use, which affords the primary means of access to the abutting property, but excluding private driveways serving only one parcel of land.

SUBDIVIDER. The person(s), firm(s) or corporations(s) owning land in the process of creating a subdivision of said land.

SUBDIVISION. Division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership, or building development (whether immediate or future); provided that a division of land into lots or parcels of ten acres or more and not involving a new street shall not be deemed a subdivision. The term includes the establishment or dedication of a road, highway, street or alley through a tract of land; a re-subdivision of land or lots; and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SURETY. Any form of security including a cash deposit, surety bond or instrument of credit from a federally insured financial institution in an amount and form satisfactory to the Common Council. All **SURETIES** required by these regulations shall be approved by the Common Council.

UTILITIES. Municipal and franchised utilities.

ZONING ORDINANCE. The Zoning Ordinance of the City of Whitewood.
(Prior Code, ' 17.0401)

' 151.005 REQUIRED IMPROVEMENTS PREREQUISITE TO FINAL APPROVAL.

(A) *Required.* The following required improvements shall be adhered to in the development of a subdivision by the subdivider.
(Prior Code, ' 17.0700)

(B) *Monuments.* Permanent survey reference monuments shall be placed at all block corners, angle points and points of curves in streets. These survey reference monuments shall be three-fourths in diameter reinforcing bar, 30 inches long and shall be placed flush with the ground or counter sunk, if necessary, to avoid being disturbed.
(Prior Code, ' 17.0701)

(C) *Utility and street improvements.*

(1) *Schedules.* Utility and street improvements shall be provided in each new subdivision in accordance with the standards and requirements described in the following schedules.

(a) *Grading.* All street and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Common Council.

(b) *Curb and gutter.* Curb and gutter shall be installed on all streets in the plat being dedicated for public use, and shall be constructed of designs and specifications approved by the Common Council, and at grades established by the Common Council and designed to provide access to the handicapped. Exceptions can be brought to the Planning and Zoning Commission for consideration of exceptional circumstances, and will be heard by the Planning and Zoning Commission on a case by case basis. The Planning and Zoning Commission will have the authority to approve or deny a request, and this decision may be appealed to the Common Council.

(c) *Surfacing.* All streets being dedicated for public use shall be surfaced from curb to curb with a material or materials producing a dust-free surface as determined by the Common Council. Surfacing shall be constructed in accordance with designs and specifications approved by the Common Council and at grades established by the Common Council.

(d) *Roadways.* Roadway widths shall conform with the subdivision regulations for various street types.

(e) *Specifications.* Plans and specifications for subdivision improvements shall be submitted to the Common Council for approval prior to construction, and construction shall not be started until the plans and specifications have been approved.

(f) *Inspections.* The Common Council shall cause the installation of all improvements to be inspected to ensure compliance with the requirements of this chapter. The cost of said inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the city.

(2) *Dedication.* All proposed streets shown on the plat shall be in conformity to the city or county plans and standards, and be offered for dedication as public streets unless otherwise determined by the Planning Commission.

(Prior Code, ' 17.0702)

PROCEDURE

' 151.020 STANDARD.

This chapter requires standard procedures for the processing of applications for subdivision approval: pre-application procedure, procedure for conditional approval of preliminary plat, and submission of final plat.

(Prior Code, ' 17.0500)

' 151.021 PRE-APPLICATION PROCEDURE.

(A) Previous to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit to the Planning Commission plans and data as specified in ' ' 151.055 through 151.059. This step does not require formal application, fee or filing of plat with the Planning Commission. The purpose of the pre-application procedure is to afford the subdivider an opportunity to avail himself or herself of the advice and assistance of the Planning Commission, and to consult early and informally with the Commission before preparation of the preliminary plat and before formal application for its approval in order to save time and money and to make the most of his or her opportunities.

(B) Within 15 days after its meeting, the Planning Commission shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the Planning Commission finds the plans and data do not meet the objectives of these regulations, it shall express its reasons therefor.

(Prior Code, ' 17.0501)

' 151.022 PROCEDURE FOR CONDITIONAL APPROVAL OF PRELIMINARY TRACT.

(A) On reaching conclusions, informally as recommended in ' 151.020, regarding his or her general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with improvement plans and other supplementary material as specified in ' ' 151.055 through 151.059.

Whitewood - Land Usage

(B) At least three copies of the preliminary plat, together with three complete application forms for preliminary approval shall be submitted to the City Finance Officer two weeks prior to the Planning Commission meeting at which consideration is desired.

(1) At the time of filing, a fee shall be paid to the City Finance Officer to cover administrative costs.

(2) The City Finance Officer shall immediately notify the Secretary of the Planning Commission upon receipt of a preliminary plat and distribute copies of the plat and completed application forms to the City Planning Commission. The City Finance Officer shall also publish notice of hearing to be held at the next regular Planning Commission meeting. The City Planning Commission will review the plat, attach any comments it has, and return it to the Auditor within 14 days.

(C) The Planning Commission shall act on the preliminary plat within 45 days after submission of the plat to the City Finance Officer. If the Planning Commission disapproves a plat, the reasons for disapproval shall be so stated in the recommendation to the Common Council.

(D) If the Planning Commission acts favorably on a preliminary plat, a notation to that effect shall be made on the plat by the presiding officer and it shall be referred to the Common Council for action. The Common Council shall approve or disapprove the plat within 30 days. Its action shall be noted on the plat, signed by the Chairperson of the Common Council and be returned to the subdivider for compliance with final plat requirements.

(E) Conditional approval of preliminary plat shall confer upon the applicant the following rights for a one-year period from the date of approval.

(1) The general terms and conditions under which the preliminary approval was granted will not be changed.

(2) The said applicant may submit on or before the expiration date the whole or any portion of said plat for final approval.
(Prior Code, ' 17.0502)

' 151.023 SUBMISSION OF FINAL PLAT.

(A) Four copies of the final plat and four copies of the application form for final approval shall be submitted to the Commission at least 14 days prior to the date of a regular Planning Commission meeting. The Planning Commission shall act upon the final plat within 45 days after the date of submission for final approval. Unless the preliminary plat was approved without changes, the final plat shall have incorporated all changes or modifications required by the Common Council.

(B) Failure of the Planning Commission to act within this allotted time or a mutually agreed upon extension shall be deemed to be a favorable recommendation and the plat shall be forwarded to the Common Council for its action on the final plat.

(C) The final plat shall be approved or disapproved by the Common Council within 30 days after submission by the Planning Commission; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Common Council on demand; provided, however, that the applicant may consent to the extension of such period.

(D) Upon final approval, copies of the final plat shall be filed by the Planning Commission with the following: City Finance Officer.

(E) The approved final plat shall be filed by the subdivider with the County Recording Officer as provided in SDCL Ch. 11-3, and acts amendatory thereto and shall file satisfactory evidence of such recording in the office of the County Auditor before the county shall recognize the plat as being in full force and effect.

(Prior Code, ' 17.0503)

GENERAL REQUIREMENTS; MINIMUM STANDARDS OF DESIGN

' 151.035 GENERAL.

(A) The Common Council shall impose the following general requirements and compel all subdividers to comply with the principles of design in the layout of subdivisions hereinafter described.

(B) All proposed subdivision regulations shall conform to the Comprehensive Plan.
(Prior Code, ' 17.0600)

' 151.036 SUITABILITY OF THE LAND FOR SUBDIVISION DEVELOPMENT.

(A) If the Common Council finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations and other such conditions as may increase the danger of health, life or property or aggravate erosion or flood hazards; and, if from adequate investigations, conducted by all public agencies concerned, it has been determined that in the best interest of the public, the land should not be platted and developed for the purpose proposed, the Common Council shall not approve the land for subdivision unless adequate methods are formulated by the subdivider for meeting the problems that will be created by the subdivision and development of the land.

(B) The Common Council may refuse to approve what it considers to be scattered or premature subdivision of land which would necessitate an excessive expenditure of public funds for the supply of such services such as undue maintenance costs for adequate roads.

(Prior Code, ' 17.0601)

' 151.037 STREET EXTENSIONS.

(A) The arrangement, character, extent, location and grade of all streets shall be in accordance with the City Comprehensive Plan and shall be considered in their relation to existing and planned streets, topographical conditions, to public convenience and safety, and in appropriate relation to the proposed uses of land to be served by such streets.

(B) Where, at the determination of the Common Council, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Common Council deems it necessary, such dead-end streets shall be provided with a temporary turn-around having a radius of at least 50 feet.

(Prior Code, ' 17.0602)

' 151.038 STREET ARRANGEMENT.

(A) The arrangement of streets is a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

(2) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

(B) Collector streets shall be so laid out that their use by through traffic will be discouraged.

(C) Street jogs with centerline offsets of less than 125 feet shall not be allowed.

(D) A tangent of at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

(E) When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than 100 feet for minor and collector streets, and of such greater radii as the Planning Commission shall determine for special cases.

(F) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 75 degrees.

(G) Street right-of-way widths shall be not less than as follows or as otherwise approved by the Planning Commission.

<i>Street Type</i>	<i>Right-of-Way</i>
Arterial	80 feet
Collector	70 feet
Minor	60 feet

(H) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided the other half of the street shall be plated within such tract.

(I) Cul-de-sacs, designed to be so permanently, shall not be longer than 600 feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 90 feet, and a street property line diameter of at least 120 feet. Dead-end streets will not be accepted.

(J) No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Common Council.

(K) Street grades shall not exceed the following, with a variance allowable of a maximum of a 2% rise where strict application would render an unreasonable hardship.

<i>Street Type</i>	<i>Percent</i>
Arterial	6%
Collector	8%
Minor	10%

(L) No street grade shall be less than 0.4%.
(Prior Code, ' 17.0603)

' 151.039 ALLEY ARRANGEMENT.

(A) Alleys shall be provided in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

(B) The minimum width of an alley shall be 20 feet.

(C) Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

(D) Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as determined by the Planning Commission.
(Prior Code, ' 17.0604)

' 151.040 EASEMENTS.

(A) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten feet wide.

(B) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming with the lines of such watercourse, and such further width or construction or both, as will be adequate or the purpose. Parallel streets or parkways may be required in connection therewith.
(Prior Code, ' 17.0605)

' 151.041 BLOCKS.

(A) The lengths, widths and shapes of blocks shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;

(2) Zoning requirements as to lot sizes and dimensions;

(3) Needs for convenient access, circulation, control and safety of street traffic; and

(4) Limitations and opportunities to topography.

(B) Block lengths shall not exceed 300 feet.

(C) Pedestrian crosswalks, not less than ten feet wide, shall be required where deemed essential by the Planning Commission to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

(D) All utility lines shall be placed underground except where, in the opinion of the Planning Commission, the location of such lines is not feasible or too costly.
(Prior Code, ' 17.0606)

' 151.042 LOTS.

(A) Lot dimensions shall conform to the requirements of the zoning ordinance.

(B) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking facilities required by the zoning ordinance.

(C) The subdividing of land shall be such as to provide by means of public street, each lot with satisfactory access to an existing public street.

(D) Double frontage and reverse frontage lots, should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
(Prior Code, ' 17.0607)

' 151.043 PUBLIC SITES AND OPEN SPACES.

(A) *Generally.* Where a proposed park, playground, school or other public use shown in the Comprehensive plan is located in whole or in part in a subdivision, the Planning Commission may require the reservation or option by the appropriate public agency; of purchasing such an area within the subdivision, in those cases in which the Planning Commission deems such requirements to be reasonable.

Whitewood - Land Usage

(B) *Dedication of parks and recreational land for residential areas.* Upon the recommendation of the Planning Commission and approval by the Common Council and other consideration of the particular type of residential development proposed, the subdivider shall be required to dedicate and deed to the city such areas of a character, extent and location suitable to the needs created by such development for park and other recreational purposes. It is hereby found and declared that at the time of platting it is reasonable to require an amount of land equal to 5% of the land proposed to be subdivided for parks and recreation purposes. As an alternative, if the land proposed for dedication does not meet the needs of the area, the Common Council, after receiving a recommendation from the Planning Commission, may require the subdivider to pay in cash an amount equal to 5% of the fair market value of the undeveloped land as defined in these regulations in lieu of the dedication of land. The fair market value shall be determined by the City Assessor's Office. For purposes of this section only, **UNDEVELOPED LAND** shall be defined as bare, platted land after utilities, streets and other normal improvements are in place. The cash payment shall be used for the purchase of land or the development of existing or future parks and playgrounds in the same general area. When land is dedicated and deeded to the city for park purposes, it shall be responsibility of the City Parks Department to maintain such dedicated property.

(C) *Dedication for storm water holding areas and ponds.* Upon recommendation of the Planning Commission and approval by the Common Council, the subdivider may be required to dedicate to the public up to 5% of the land proposed to be subdivided for storm water holding areas or ponds. The 5% dedication shall not be considered in addition to the 5% dedicated for parks and recreation purposes as it relates to residential subdivision.

(Prior Code, ' 17.0608)

PLATS AND DATA

' 151.055 REQUIRED.

Pursuant to the provisions of this chapter, the following plats and data shall be required as a part of the subdivision applications.

(Prior Code, ' 17.0800)

' 151.056 PRE-APPLICATION PLANS AND DATA REQUIRED.

(A) General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information may include data on existing covenants, land characteristics and available community facilities and utilities; and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, business areas, playgrounds, park areas and other public areas, proposed protected covenants and proposed utilities and street improvements.

(B) Local maps shall show the relationship of the proposed subdivision to existing community

facilities which serve for influence it. Include development name and location; main traffic arteries; elementary and high schools; parks and playgrounds; other community features such as railroad stations; airports, hospitals and churches, title; scale; north arrow; and date.

(C) Sketch plans on topographic survey shall show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of the topographic survey. In any event, the sketch plan shall include either the existing topographic data listed in division (A) above or such of these data as the Planning Commission determines it necessary for its consideration of the proposed sketch plan. (Prior Code, ' 17.0801)

' 151.057 DATA NECESSARY FOR INCLUSION IN THE PRELIMINARY PLAT.

Data required as a basis for the preliminary plat shall include the following, except when otherwise specified by the Planning Commission:

(A) Boundary lines: bearings and distance;

(B) Easements: location, width and purpose;

(C) Streets on and adjacent to the tract; name and right-of-way width and location; type, width and elevation of surfacing; and legally established centerline elevations; walks, curbs, gutters, culverts and the like;

(D) Utilities on an adjacent to the tract; location size and invert elevation of sanitary, and storm sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles and street lights; if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and size of nearest ones, showing invert elevation of sewers;

(E) Ground elevations on the tract, based on the datum plane approved by the Common Council, for land that slopes less than approximately 2% show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions; for land that slopes more than approximately 2% either show contours with an interval of not more than five feet if ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two feet if necessary because of irregular land or need for more detailed data for preparing plans and construction drawings;

(F) Subsurface conditions on the tract, if required by the Planning Commission: location and results of tests made to ascertain subsurfaces soil, rock and groundwater conditions; depth to ground water unless test pits are dry at a depth of five feet; location and results of soil percolation tests if individual sewage disposal systems are proposed;

(G) Other conditions on the tract; watercourses, marshes, rock outcrop, wooded areas, isolated preservable trees one foot or more in diameter, houses, barns, shacks and other significant feature;

(H) Other conditions of adjacent land: approximate direction and gradient of ground slope,

Whitewood - Land Usage

including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences; for adjacent platted land refer to subdivision plat by name;

(I) Key plan showing location of the tract; and

(J) Title and certificates: present tract designation according to official records in office of appropriate recorder; title under which proposed subdivision is to be recorded, with names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or surveyor, date of survey.

(Prior Code, ' 17.0802)

' 151.058 DATA FOR PROPOSED IMPROVEMENTS NECESSARY FOR INCLUSION IN THE PRELIMINARY PLAT.

(A) *Generally.* Plats shall be at a scale of one inch to 100 feet or larger; it shall show all conditions previously required in ' 151.056 and 151.057, and shall show all proposals, including the following:

(1) Streets: names, right-of-way and roadway widths; approximate grades and gradients and similar data for alleys, if any;

(2) Other rights-of-way easements; location, width and purpose;

(3) Location of existing and proposed utilities, if not shown on other exhibits;

(4) Lot lines, lot numbers and block numbers;

(5) Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses;

(6) Building setback lines;

(7) Title, graphic scale, north arrow and date; and

(8) Location sketch map.

(B) *Other preliminary plans.* When required by the Planning Commission, the preliminary plat shall be accompanied by profiles showing existing ground surface and proposed street grades at a scale of 50 feet to one inch including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross-sections of the proposed grading, roadway and sidewalk; and preliminary plan of proposed sanitary and storm water sewers with grades and sizes indicated. All elevations shall be based on the datum plan approved by the Common Council.

(Prior Code, ' 17.0803)

' 151.059 DATA AND REQUIREMENTS FOR FINAL PLAT.

(A) The final plat shall be drafted in ink and presented on a reproducible Mylar at a scale of 100 to one inch or larger.

(1) Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivisions for large subdivisions, the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning Commission.

(2) The final plat shall show the following:

(a) Primary control points, approved by the Common Council or description and ties to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred;

(b) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites;

(c) Name and right-of-way width of each street or other right-of-way;

(d) Location, dimensions and purpose of any easements;

(e) Number to identify each lot or site;

(f) Purpose for which sites, other than residential lots, are dedicated or reserved;

(g) Building setback line on all lots and other sites;

(h) Location and description of monuments;

(i) Reference to recorded subdivision plats of adjoining platted land;

(j) Certification of title showing that applicant is the land owner;

(k) Certification by registered land surveyor certifying to accuracy of survey and plat;

(l) Certification by the County Director of Equalization that he or she has received a copy of such plat;

(m) Certification by the County Treasurer that all taxes, which are liens upon any land included in the plat, have been fully paid;

(n) Statement of approval by the Planning Commission;

Whitewood - Land Usage

- (o) Statement of approval by the Common Council;
- (p) Statement of owner dedicating streets, rights-of-way and sites for public uses; and
- (q) Title, graphic scale, north arrow and date.

(B) If improvements are not already in place at the time of final plat submission, a bond or certified check shall be required to assure such completion of all required improvements within 18 months. The bond or certified checks will be made available to the city and the estimate for amount shall be approved by the city.

(C) Other data: such other certificates, affidavits, endorsements, deductions or developers agreements as may be required by the Planning Commission in the enforcement of these regulations. (Prior Code, ' 17.0804)

SURETY BOND**' 151.070 ASSURANCE; IMPROVEMENTS AND PERFORMANCE BOND.**

(A) *Completion of improvements.* Before the plat is signed by the Chairperson of the Planning Commission, all applicants shall be required to complete, in accordance with the Planning Commission's decision and to the satisfaction of the City Engineer, all the street, sanitary and other improvements including lot improvements on the individual lots of the subdivision as required in these regulations, specified in the final subdivision plat, and as approved by the Planning Commission, and to dedicate same to the local government, free and clear of all liens, encumbrances on the property and public improvements thus dedicated.

(B) *Surety bond.*

(1) No plat of any subdivision shall be approved unless the improvements required by this chapter have been installed prior to such approval, or unless the developer shall have posted a surety bond or irrevocable letter of credit assuring completion of all required improvements. Such improvements may include but are not limited to, soil preservation, final grading according to the comprehensive subdivision drainage plan, lot drainage, erosion control, forest thinning, removal of debris and waste, fencing and screening, curb, gutter and street paving, and all other lot improvements required by the Planning Commission and Common Council.

(2) Such surety bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the final plat and shall be incorporated in the bond and shall not in any event exceed 18 months from the date of final approval.

(3) Surety for all required improvements not completed shall be provided at the date of final plat submittal. An itemized list of uncompleted improvements and engineers estimate of associated costs plus 20% shall be submitted for review and approval.

(4) Such bond shall be approved by the Common Council as to amount and surety and conditions satisfactory to the Common Council. The Planning Commission may upon proof of difficulty recommend to the Common Council extension of the completion date set forth in such bond for a maximum period of one additional year.

(Prior Code, ' 17.0901)

' 151.071 FAILURE TO COMPLETE IMPROVEMENTS.

(A) Where a surety bond has been posted and required improvements have not been installed within the terms of such surety bond, the city may thereupon declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

(B) A surety or any portion thereof shall not be released without certification of completion from a state registered professional engineer that improvements were completed in accordance with the approved plans and these regulations.

(C) The developer shall provide for the inspection of required improvements during and upon completion of their construction. The applicant/developer shall furnish to the Common Council, certification from a state registered professional engineer that improvements were completed in accordance with the approved plans and these regulations.

(Prior Code, ' 17.0902)

' 151.072 ACCEPTANCE OF DEDICATION OFFERS.

Acceptance of formal offers of dedication of streets, public areas, easements and parks shall be by resolution of the Common Council. The approval by the Planning Commission of a subdivision plat shall not be deemed to constitute or imply the acceptance by the city of any street, easement or park shown on said plat. The Planning Commission may require said plat to be endorsed with appropriate notes to this effect.

(Prior Code, ' 17.0903)

*VARIANCES***' 151.085 GENERAL CONDITIONS.**

(A) The Planning Commission may recommend a variance from the provisions of this chapter when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(B) No variance shall be granted unless the Commission finds:

(1) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated; and

(4) The granting of the variance will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the zoning ordinance or these regulations.
(Prior Code, ' 17.1001)

' 151.086 APPLICATIONS REQUIRED.

(A) Applications for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Commission, stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the Commission in the analysis of the proposed project.

(B) The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the Plan.
(Prior Code, ' 17.1002)

' 151.087 PLANNED UNIT DEVELOPMENT.

The standards and requirements of these regulations may be modified by the Planning Commission in the case of a planned neighborhood unit which in the judgment of the Planning Commission, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

(Prior Code, ' 17.1003)

CHAPTER 152: ZONING

Section

General Provisions

- 152.001 Statutory authority
- 152.002 Short title
- 152.003 Statement of purpose
- 152.004 Jurisdiction
- 152.005 Definitions
- 152.006 Nonconforming buildings, structures and uses of land
- 152.007 Relationship

Zoning Districts and Map

- 152.020 Establishment of zoning districts
- 152.021 Official zoning map
- 152.022 Interpretation of the zoning map
- 152.023 Zoning of vacated areas
- 152.024 Zoning district of annexed territory

District Regulations

- 152.035 General Residential District 1 (GR1)
- 152.036 General Residential 2 (GR2)
- 152.037 General Residential 2A (GR2A)
- 152.038 Light/Commercial Office (LC/O)
- 152.039 Highway Services (HS)
- 152.040 Industrial Commercial (IND)
- 152.041 Government (GOVT)
- 152.042 Parks/Recreation (PR)

Supplementary Regulations

- 152.055 Generally
- 152.056 Development standard for uses permitted on review
- 152.057 Miscellaneous exceptions and conditions
- 152.058 Storage, parking and use of certain vehicles in residential areas
- 152.059 Signs, billboards and other advertising structures
- 152.060 Recreational vehicle/trailer parking

Administration and Enforcement

- 152.075 Administrative official
- 152.076 Common Council
- 152.077 Planning Commission
- 152.078 Variances
- 152.079 Use on review
- 152.080 Amendments
- 152.081 General provisions for application for regulations

- 152.999 Penalty

GENERAL PROVISIONS

152.001 STATUTORY AUTHORITY.

This chapter is enacted under the authority of 1967 SDCL Ch. 11-4 and SDCL Ch. 11-6.
(Ord. 2004-03, passed 5-17-2004)

152.002 SHORT TITLE.

This chapter shall be known and cited as the AWhitewood Zoning Ordinance@.
(Ord. 2004-03, passed 5-17-2004)

152.003 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the safety, health, convenience and general welfare; to encourage the use of lands and natural resources in the city in accordance with their character, adaptability and suitability for particular purposes; to conserve social and economic stability, property values and the general character and trend of community development; to prevent excessive concentration of population; to lessen congestion on the public streets and highways; to facilitate adequate provision of streets and highways, sewerage and drainage, water supply and distribution, educational and other public resources, by establishing herein standards for community development in accordance with these objectives and by providing for the enforcement of such standards.
(Ord. 2004-03, passed 5-17-2004)

152.004 JURISDICTION.

This chapter shall govern all lands within the corporate limits of the city.

(Ord. 2004-03, passed 5-17-2004)

152.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future tense; words in the singular number include the plural, and words in the plural number include the singular; the word *Aperson@* includes a firm, partnership or corporation as well as an individual; the word *Astructure@* includes the word *Abuilding@*; the term *Ashall@* is always mandatory and not discretionary; and the word *Amay@* is permissive. The word *Aused@* or *Aoccupied@* as applied to any land or building shall be construed to include the word *Aintended@* or *Adesigned@* to be used or occupied.

ACCESSORY. Incidental to another use or structure on the same lot.

ALLEY. A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

ALTERATION. Any change to a resource because of construction, repair, maintenance or other means, except for maintenance and repair which does not involve a change in design, material, color or outer appearance.

APARTMENT HOUSE. A residential building or a portion of a building containing three or more dwelling units for occupancy by three or more families living separately from each other.

APPEAL. Obtaining review of a decision, determination, order or failure to act pursuant to the terms of this chapter as expressly authorized.

APPLICANT. The owner of record of a particular property; the lessee thereof with the approval of the owner of record in notarized form; or a person holding a bona fide contract to purchase a particular property, who makes application under this chapter.

BASEMENT. The portion of a building between floor and ceiling that is located partly below and partly above grade and has more than half its clear floor-to-ceiling height below the average grade of the adjoining ground abutting the exterior walls of the dwelling unit.

BATHROOM. A room containing a toilet that may also contain a lavatory, shower or bathtub.

BED AND BREAKFAST. A dwelling other than a hotel where meals or lodging and meals for one or more persons are provided for compensation.

BERM. A strip of mounded topsoil, which provides a visual screen.

BOARD OF APPEAL. The Planning and Zoning Board and the Whitewood Common Council.

BOARDING HOUSE. A residential building or structure, or portion thereof, other than a hotel, lodge or multi-family dwelling, providing temporary or long-term lodging for six or more guests, serving meals to those guests on a continuing basis for compensation, and having a manager residing on the premises, but not providing a restaurant or bar, or accessory uses, such as recreational facilities, typically associated with a hotel or lodge.

BUFFER ZONE. An area between land uses providing fencing, berms, mounds, plant material or any combination thereof to act as visual or noise buffers.

BUILD ABLE AREA OF A LOT. The portion of a lot bonded by the rear and side yards and front yard or the building setback lines.

BUILDING. Any structure, either temporary or permanent, having a roof or other covering, and designed and used for the shelter or enclosure of any person, animal or property of any kind, including vehicles situated on private property and used for purposes of a building.

BUILDING INSPECTOR. The inspector or his or her authorized representatives appointed by the Common Council to issue building and occupancy permits.

BUILDING, MAIN OR PRINCIPAL. A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the **MAIN BUILDING** on the lot on which it is situated.

BUILDING SETBACK LINE. A line delineating the minimum allowable distance between the street right-of-way and the front of a structure, within which no building or other structure shall be placed except as provided in ' 152.057. The **BUILDING SETBACK LINE** is parallel to or concentric with the street right-of-way.

BUSINESS. All activities in which a person engages or in which such person causes another to engaged with the object to gain, benefit or advantage, whether direct or indirect.

CAMPING AREAS. A platted parcel of land separately owned and developed for commercial use, offering to the traveling public overnight parking spaces for trailer campers and/or tent sites.

CAR WASH. A structure or portion thereof containing facilities for washing motorized vehicles, using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical devices.

CARPORT. A roof projecting from the side of a building used to shelter a vehicle, which has open ends.

CERTIFICATE OF OCCUPANCY. A document issued by the city which states that the described portion of a building has been inspected for compliance with the requirements of the Uniform Building Code and division of occupancy and the use for which the proposed occupancy is classified.

CHARITABLE ORGANIZATION. Any entity organized and/or operated in the city exclusively for religious or charitable purposes, no part of whose net earnings inures to the benefit of any private shareholder or individual.

CHURCH. A building together with its accessory buildings and uses where persons regularly assemble for religious worship, such buildings being maintained and controlled by a religious body organized to sustain public worship.

CODE ENFORCEMENT OFFICER. Any city employee or person employed under independent contract by the city who is appointed to enforce the laws of the city.

COMPREHENSIVE PLAN. The official document or elements thereof, adopted by the city, and intended to guide the physical development of the city or a portion thereof. Such plan may include maps, plats, charts, policy statements and the like.

CONSTRUCTION PROJECT. The erection, installation, alternation, repair or remodeling of a building or structure upon real estate or any other activity for which a building permit is required under this code or an ordinance of the city.

CONTIGUOUS. A sharing of a common border at more than a single point of intersection and in such a manner that the shared boundaries are touching and not separated except by boundaries or private rights-of-way, watercourses or water bodies, or other minor geographical divisions of similar nature running parallel and between the shared boundaries. **CONTIGUITY** is not the mere touching of points at intersections.

CONVENIENCE STORE/FUEL RETAIL. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail.

CUL-DE-SAC. A local street, one end of which is closed and consists of a circular turn around.

DAY CARE FACILITY. And includes a center, home, day nursery, nursery school or other place however styled and whether operated under public auspices or as a private business in which participants are received for temporary custodial care apart from parents or guardians.

DECK. An exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers or other independent supports.

DEMOLITION. The complete or partial removal of buildings, structures, objects or sites, including appurtenances.

DEMOLITION BY NEGLIGENCE. Improper maintenance or lack of maintenance of any resource, which results in substantial deterioration of the resource and threatens its continued preservation.

DEVELOPER. Any person who participates in any manner in the development of land.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including,

without limitation, building, repairing, replacing or expanding or enlarging, but not maintaining a building or other structure or portion thereof, or mining, dredging, filling, grading, paving or excavation.

DEVELOPMENT PERMIT. Any permit or authorization issued by the city as a prerequisite for undertaking any improvement to real property including, without limitation, building permits, planned unit developments, variances, height or conditional use permits, and nonconforming permits.

DRIVEWAY. The space or area of a lot that is specifically designated and reserved for the movement of motor vehicles within the lot or from the lot to a public street.

DUPLEX. A structure containing two dwelling units, each of which has direct access to the outside.

DWELLING. One or more rooms and a single kitchen designed as a unit for occupancy by only one family for cooking, living and sleeping purposes.

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

EASEMENT. The authorization by a property owner of the use by another and for a specified purpose of any designated part of that owner's property.

EFFICIENCY LIVING UNIT. A dwelling unit that contains a bathroom and kitchen and does not exceed a maximum floor area of 400 square feet.

ENGINEER. A professional who is registered with the State Engineering and Architectural Department as a professional engineer.

EROSION. The detachment and movement of soil or rock fragments by water, wind, ice and/or gravity.

EXCAVATION. The removal of surface vegetation or the excavation of more than ten cubic yards of soil in a one-year period.

EXPANSION OF A STRUCTURE. Any addition of an exterior wall to the structure or any addition to the floor area of the structure, whether under, at or above grade, and whether or not the external dimensions of the structure are changed.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing manufactured homes, including, without limitation, installation of utilities, final site grading, pouring of concrete pads or construction of streets.

FAMILY. An individual or a group of two or more persons related by blood, marriage or

adoption, including foster children and domestic servants.

FENCE. A freestanding structure of metal, masonry, wood or any combination thereof resting on, or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.

FESTIVAL. Any fair, festival or similar activity where patrons are charged admission or other fees for the privilege of watching or participating in entertainment, including, but not limited to, music shows, concerts and revivals.

FLOOR AREA. The total square footage of all levels included within the outside walls, as measured from the exterior face of the exterior walls of a building or portion thereof, but excluding courts and uninhabitable areas below the first floor level.

FLOOR AREA RATIO (FAR). The ratio of the floor area of a building to the area of the lot on which the building is situated.

FOUNDATION, PERMANENT. A support structure for a building, wall or fence which is capable of supporting the weight, extends to below frost depth, is capable of resistance to wind uplift of the highest recorded winds in the area, and includes, but is not necessarily limited to, concrete caisson/grade beam, caissons and spread footer types.

FOUNDATION, MOBILE HOME. As per specs of mobile home manufacturer.

FRONTAGE, BUILDING. The horizontal, linear dimension of that side of a building that abuts a street, a parking area, a mall or other circulation area open to the general public and that has either a main window display of the enterprise of a public entrance to the building.

FRONTAGE, STREET. The linear frontage of a lot or parcel abutting a private or public street that provides principal access to or visibility of the premises.

GARAGE. A fully enclosed building for the storage of motor vehicles.

GARAGE, REPAIR. A building in which facilities are provided for the care, servicing and repair of equipping of motor vehicles.

GOVERNMENTAL FACILITY. A municipal, county, state or federal structure, building or use.

GRADE. The average elevation of the finished ground level at the center of all walls of a building. When walls are parallel to and within five feet of a sidewalk, **GRADE** means the sidewalk level.

GROUP CARE FACILITIES. A facility, licensed by the appropriate state or local agency, which provides resident service to individuals of who one or more are unrelated. These individuals are handicapped, aged, disabled or in need of adult supervision. They are undergoing rehabilitation or are provide services to meet their needs. This category includes uses, licensed or supervised by any federal, state or county health/welfare agency such as group homes (all ages), halfway houses, resident schools, resident facilities and nursing homes.

GROUP HOME FOR THE DEVELOPMENT ALLY DISABLED. A state licensed facility for the exclusive use of eight or fewer developmentally disabled persons.

HEIGHT. The vertical distance from grade plane to the average height of the highest roof surface.

HISTORICAL MONUMENTS AND/OR STRUCTURES. Any antique structure, building or geographical location existing and commonly associated with an outstanding event or period of history, and any structure or building in which the relics or mementos of such event or period are housed and preserved.

HOME OCCUPATION. A use that employs no more than one person who is a nonresident of the building which is clearly incidental and secondary to residential occupancy and does not change the character thereof, provided that no display, except a regulated sign, will indicate from the exterior that the building or land is being utilized in part for any purpose other than that of a dwelling.

ILLUMINATION. To supply or brighten with light, which could be by a direct, indirect or internal lighting system.

IMPERVIOUS SURFACE. Those surfaces, which generally do not absorb water. For the purposes of this chapter, they consist of buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt.

IMPROVEMENTS. Street grading and surfacing, curbs and gutters, sidewalks, water mains and lines, sanitary and storm sewer, culverts, bridges and other related utilities.

INDOOR AMUSEMENT ESTABLISHMENT. A commercial operation open to the public without membership requirements, including, without limitation, bowling alleys, indoor arcades, movie theaters, pool halls and skating rinks.

INTERGOVERNMENTAL AGREEMENT. Agreement between the County Board and the governing bodies of urban growth areas or other special focus areas regulating development within specific boundaries, as identified in the Comprehensive Plan.

JUNK YARD. A building, structure or parcel of land or portion thereof, used for the collection, storage, dismantling, salvaging, demolition or sale of junk on the premises for more than one week, but excludes such uses within enclosed buildings.

LAND SURVEYING. The locating, establishing or relocating of any land boundary line or the

locating of any United States government, state, county, township, municipal or governmental land survey lines of any public highway, street or road.

LANDSCAPED AREA. Any land set apart for planting grass, shrubs, trees or similar living materials, including, without limitation, land in an arcade, plaza or pedestrian area, and of which fences and walls may be a part.

LEGAL DESCRIPTION. A description of real property by lots, blocks, subdivision or metes and bounds, but excludes an assessors tract number.

LIGHT SOURCE. Neon, florescent or similar tube lighting, and incandescent bulb, including the light-producing elements therein, and any reflecting surface that, by reason of its construction or placement, becomes the **LIGHT SOURCE**.

LOT. A parcel of land, which is or may be occupied by a single main building and its accessory buildings.

LOT AREA. The total horizontal area included within lot lines.

LOT, BUILDING. A parcel of land, including, without limitation, a portion of a platted subdivision, that is occupied or intended to be occupied by a building or use and its accessory buildings and uses, together with the yards required under the provisions of this code; that has not less than the minimum area, usable open space, building area and off-street parking spaces required by code for a lot in the district in which such land is situated; that is an integral unit of land held under unified ownership in fee or co-tenancy or under legal control tantamount to such ownership; and that is precisely identified by a legal description.

LOT, CORNER. A lot of which at least two adjoining sides abut for their full lengths on a street.

LOT, COVERAGE. The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

LOT, DEPTH. The average horizontal distance between the front lot line and the rear lot line of a lot.

LOT, DOUBLE FRONTAGE. A lot which runs through a block from street to street and which has two non-intersecting sides abutting on two or more streets.

LOT, FRONTAGE. The dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

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

LOT LINES. The lines bounding a lot as defined herein.

LOT LINE, FRONT. In the case of an interior lot, the line separating said lot from the street. In the case of a corner or double frontage lot, the one separating said lot from that street which is designated as the front street in the request for building permit.

LOT LINE, REAR. The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than ten feet long and wholly within the lot.

LOT LINE, SIDE. A side lot line is any lot boundary line not a front lot line or a rear lot line.

LOT OF RECORD. A lot, if part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the Officer of the Register of Deeds of Lawrence County, South Dakota.

LOT, PLATTED. A lot that has been subdivided pursuant to a legal subdivision approval process and is precisely identified by reference to a block and lot.

MAINTENANCE. The replacing, repairing or repainting of a portion of a sign structure, periodic changing of bulletin board panels, or renaming of copy that has been made unusable by ordinary wear and tear, by nature or by accident.

MANUFACTURED HOME. A structure used exclusively for human habitation, which is constructed on a permanent chassis in compliance with the national manufactured home construction and safety standards act, formerly known as the national mobile home construction and safety standards act, subsequent to June 15, 1976 (the effective date of said national manufactured home construction and safety standards act) and which is transportable in one or more sections.

MANUFACTURED HOME COMMUNITY. A parcel of land which has been planned and improved for the placement of manufactured or mobile homes for residential use, with a single control or ownership.

MEDICAL FACILITY. A facility providing health services for human care including hospitals, laboratories, medical or dental clinics, training facilities and staff offices.

MOBILE HOME. A structure used exclusively for human habitation, constructed in a manufacturing facility prior to June 15, 1976 (the effective date of national manufactured home construction and safety standards act, formerly known as the national mobile home construction and safety standards act) and which is transportable on a permanent chassis. A mobile home shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a recreational vehicle.

MOBILE HOME PARK. Any tract, area or site or plot of land whereupon a mobile home is herein defined is placed, located or maintained, or intended to be placed, located or maintained, and shall include all accessory buildings used or intended to be used as part of the equipment thereof.

MOBILE HOME SPACE. A plot of ground within a mobile home park design for the accommodation of one mobile home and its accessory structures.

MODULAR HOME. A structure used exclusively for human habitation consisting of finished units composed of two (2) or more components designed to be joined into one (1) integral unit not capable of being separated into its components for moving and towing; designed to be placed on a permanent foundation with or without a basement. To be classed as a modular home, the completed unit must meet with the specifications of the following:

- (1) International Building Code, as adopted.
- (2) National Electric Code, as adopted.
- (3) Uniform Plumbing Code, as adopted.
- (4) International Mechanical Code, as adopted.

MOTEL ROOM, HOTEL ROOM OR OTHER ACCOMMODATION. Any room or other accommodation in any hotel, apartment-hotel, motel, guest house, trailer court or any such similar place to any person who for a consideration uses, possesses, or has the right to use or possess such a room or other accommodation for a temporary period of time.

MUNICIPAL UTILITY SERVICES. Distribution, collections, communication, supply or disposal systems, including, without limitation, poles, wires, transformers, disconnects, regulators, water meters, mains, drains, sewer, pipes, conduits, cables, fire alarms boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories that are reasonably necessary for public utilities for the city to furnish adequate service or for the public health, safety or welfare.

NONCONFORMING BUILDING. Any building that does not conform to the requirements of this chapter, unless the nonconformity was approved as part of a planned unit development, as a second principal building on a lot, or as a variance.

NONCONFORMING LOT. Any lot that does not conform to the minimum lot area or frontage upon a required public street, unless the nonconformity was approved as part of a planned unit development.

NONCONFORMING USE. A building, structure or use of land existing at the time of enactment of this chapter and which does not conform to the regulations of the zoning district in which it is located.

NOTICE or LEGAL NOTICES. Any requirement for informing a person or persons, a segment of the public, or the public generally. A **NOTICE** required to be published must be published in the city's legal newspaper and can be published in any other newspaper of general circulation unless otherwise required by this code or an ordinance of the city.

OCCUPANT. Any person living in, sleeping, possessing or otherwise using any land, building or part thereof.

OFFICE. The principal use of a room(s) for the conduct of business by persons, including,

without limitation, accountants, architects, attorneys, consultants, engineers, insurance salespeople, investment consultants, real estate brokers or therapists, where there is no display of merchandise and the storage and sale of merchandise is clearly incidental to the service provided, but excluding medical or dental clinics or offices.

ORDINANCE. A permanent legislative act of the Common Council of a municipality within the limits of its power.

OWNER. A person, as defined by this code, who, alone, jointly or severally with others, or in a representative capacity (including, without limitation, an authorized agent, executor or trustee) has legal or equitable title to any property in question.

PARCEL. The area within the boundary lines of a development.

PARKING LOT. An area, not within a building or other structure, where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. A **PARKING LOT** shall include a motor vehicle display lot and a commercial parking lot.

PARKING SPACE, OFF-STREET. Consists of a space adequate for parking a motor vehicle with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

PARTY. To a hearing, means any interested person who requests a hearing, appears at a hearing or submits a written entry of appearance at or before a hearing.

PAWN BROKERS. Any person who loans money on deposit or pledge of personal property or other thing of value or who deals in the purchasing of personal property or other thing of value on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property and take possession of the property so mortgaged, or any part thereof, is a pawnbroker.

PERSON. Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

PERSONAL SERVICE OUTLET. An establishment that provides personal services for the convenience of the neighborhood, including, without limitation, barber and beauty shops, shoe repair shops, self-service laundries, travel agencies, photographic studios and automatic teller machines.

PETITIONER. An applicant, proponent, landowner or agent.

PLACE OR EVENT OPEN TO THE PUBLIC. Any place or event, the admission or access to which is open to members of the public upon payment of a charge or fee. This term includes, without limitation, the following places, and events when a charge or fee for admission to such places and events is imposed upon members of the public:

- (1) Any performance of a motion picture, stage show, play, concert or other manifestation of

the performing arts;

(2) Any sporting or athletic contest, exhibition or event whether amateur or professional;

(3) Any lecture, rally, speech or dissertation;

(4) Any showing, display or exhibition of any type, such as an art exhibition; and

(5) Any restaurant, tavern, lounge, bar or club, whether the admission is called a cover charge, door charge or any other such term.

PLAT. A drawing or map on which a subdivision plan is presented during various stages of approval.

(1) **FINAL PLAT.** A plat of a tract of land, which meets the requirements of those regulations and is in form for recording in the office of the Register of Deeds.

(2) **PRELIMINARY PLAT.** The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this chapter, to permit the evaluation of the proposal prior to detailed engineering and design.

(3) **SKETCH PLAT.** The sketch map or maps of a proposed subdivision, drawn and submitted in accordance with the requirements of this chapter, to evaluate feasibility and design characteristics at an early stage in the planning.

PLANNING AND ZONING COMMISSION. The Planning and Commission of the City of Whitewood.

POSSESSOR. Of real property, means a person not the owner of the property but who is responsible as lessee, caretaker or otherwise for its care and upkeep and is in control of the property.

PREMISES. Only that property over which the owner or keeper has full possession and control. The unenclosed property of a condominium or townhouse or the common passageway, parking facility or unenclosed common yard of an apartment building or shopping center are not **PREMISES** of an owner or keeper.

PRINCIPAL USE. The primary purpose for which land or a building is used.

PROPERTY. Real, tangible and intangible personal property.

PUBLIC ENTRANCE. An entrance to a building or premises that is customarily used or intended for use by the general public. Examples of private entrances not intended for use by the general public are fire exits, special employee entrances and loading dock entrances.

PUBLIC HEARING. Unless otherwise specifically redefined, shall mean a public hearing pursuant to a notice published, in an official newspaper of the city, at least ten days prior to the date of

such hearing which notice shall specify the general purpose, time and place of such hearing. Any such hearing, after publication may be continued, recessed or adjourned from time to time without any further publication or notice thereof.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board duly authorized to furnish and maintain installation for the supply of electricity, oil, gas, communications, transportation and water.

PUBLIC RIGHT-OF-WAY. Any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

REAL PROPERTY, PREMISES, REAL ESTATE OR LANDS. Lands, tenements and hereditaments

RECREATIONAL VEHICLE. A vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Examples are: travel trailer, camping trailer, truck camper and motor home.

RECREATIONAL VEHICLE PARK. A parcel of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles or tents of the general public as temporary living quarters for recreation or vacation purposes.

RECREATIONAL VEHICLE SITE. A plot of ground within a recreational vehicle park intended for the accommodation of either a recreational vehicle, tent or other individual camping unit on a temporary basis.

RENTAL PROPERTY. All dwellings, dwelling units and rooming units located within the city and rented or leased for any valuable consideration, but the term excludes dwellings owned by the federal government or the state or any of their agencies or political subdivisions and facilities licensed by the state as health care facilities.

RESIDENTIAL STRUCTURE. Any structure that is used for the temporary or permanent residence of persons, including, without limitation, a dwelling, a boarding house, a hotel, a motel and similar structures.

RESOLUTION. As used in this chapter shall mean any determination, decision or direction of the Common Council of a municipality of a special or temporary character for the purpose of initiating, effecting or carrying out its administrative duties and functions, under the laws and ordinances governing the municipality.

RESTAURANT. An establishment provided with special space, sanitary kitchen, dining room equipment and persons to prepare, cook and serve, in consideration of payment, meals and drinks to guests.

ROOF. The cover of any building, including the eaves and similar projections.

ROOFLINE. The highest point on any building where an exterior wall encloses usable floor space (including roof areas for housing mechanical equipment) and the highest point on a parapet wall.

RUBBLE. Large brush, wood, large cardboard boxes or parts thereof, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked motor vehicle bodies or parts thereof, scrap metal, bed springs, water heaters, discarded furniture and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three feet or more in length, width or breadth.

SANITARY SEWER. A municipal, community or individual sewage collection and disposal system of a type approved by the State Department of Environmental Protection.

SETBACK. The minimum distance in linear feet measured on a horizontal plane between the outer perimeter of a structure and each of its lot lines. Where a building is to be erected on multiple platted lots, **SETBACKS** shall be measured from the boundaries of the parcel, which shall be made up of the multiple lots considered as a whole.

SIDEWALK. The portion of the sidewalk area paved or otherwise improved, designed or ordinarily used for pedestrians and every such walk parallel and adjacent to a roadway.

SIDEWALK AREA. The area between the curb or a street and the adjacent property lines.

SIGN. A structure or device designed or intended to convey information to the public in written or picture form. The word **SIGN** includes the word **BILLBOARD**, or any other type of advertising device, but does not include the flag, pennant or insignia of any nation, state, city or other political unit. Types of **SIGNS** are defined in the following categories.

(1) **ADVERTISING SIGN.** A sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on premises if at all.

(2) **BILLBOARD.** A type of advertising sign having more than 100 square feet of display surface which is either erected on the ground or attached to or supported by a building or structure.

(3) **BUSINESS SIGN.** A sign, which directs attention to the business or profession, conducted on the premises. A "For Sale", "To Let" or "Information" sign shall be deemed a **BUSINESS SIGN**.

(4) **POLE SIGN.** A type of ground sign at least ten feet above the ground supported on a single post or pole most commonly associated with gasoline service stations.

(5) **ROOF SIGN.** A detached sign erected, constructed or maintained above the roof of any building.

TEMPORARY SIGN. Temporary signs shall include any sign, banner, pennant, valance or

advertising display constructed of wood, metal, cloth, canvas, light fabric, cardboard, wall board or other light material, with or without frames, where either by reason of construction or purpose the sign is intended to be displayed for a short period of time only.

SINGLE-FAMILY DWELLING. A building designed to be occupied exclusively by one family.

SITE PLAN. A required submission, which is a detailed engineering drawing of the proposed improvements required in the development of a given lot.

STORAGE UNIT. An enclosed building for the storage and care of personal property on a commercial basis.

STORM WATER. Any flow occurring during or following any form of normal precipitation and resulting there from.

STREET. The entire width between the property boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and includes without limitation, alleys or the entire width of every way declared to be a public highway by any law.

STRUCTURE. Any construction or piece of work composed of parts joined together in some definite manner including, but not limited to, buildings, mobile homes, sheds, decks, signs, storage bins, and sidewalks, but excluding, private walkways, driveways, parking areas, streets and patios.

TAVERN. An establishment serving malt and vinous liquids for retail consumption on the premises.

TOWNHOUSE. A multi-unit dwelling in which the ownership of each dwelling unit consists of a separate fee simple estate on an individually platted lot, together with an undivided fee simple interest in the common elements, if any.

TRANSACTION. Any contract; any sale or lease of any interest in land, material, supplies or services; or any granting of development right, license, permit or application.

UNDERTAKING* or *PROJECT. Any demolition of any building or structure or historic resource and any other action or contemplated action which requires a permit under any ordinance adopted by the city, including the Uniform Building Code Edition, as adopted and/or amended, by the Common Council.

UNIFORM BUILDING CODES. The uniform building code as officially adopted by the City of Whitewood.

URBAN GROWTH AREAS. Those areas with specific boundaries identified herein which may utilize negotiated intergovernmental agreements and supplemental ordinances to regulate development in accordance with the city=s Comprehensive Plan.

USE. The purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE ON REVIEW. A use not allowed within a given district unless certain conditions are met. The conditional use must be a use, which is desirable to the zone itself. The city may require substantial conditions to be met by the use to mitigate negative impacts. Example: private nursery school in a residential area. The use is desirable within the district, but the nature of the use is such that special precautions need to be taken to protect neighbors from undue traffic, noise and inconvenience.

VARIANCE. See ' 152.078.

WATERCOURSE. A portion of the flood-way area functioning as a natural or improved channel carrying flows not constituting a flood, a stream, a creek, a pond, a sloughs, a gulch, an arroyo, a reservoir or a lake. The term includes, without limitation, established natural and human-made drainage ways for carrying storm run-off, but does not include irrigation ditches.

YARD. An open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except where otherwise specifically provided in this chapter that building or structure may be located in a portion of a yard required for a main building. In measuring a **YARD** for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

YARD, FRONT. An open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the street line and the front line of the building projected to the side line of the lot. The depth of the **FRONT YARD** shall be measured between the front line of the building and the street line.

YARD, REAR. A space on the same lot with the principal building, between the rear line of the building and the rear line of the lot and extending the full width of the lot, which is unoccupied except for permitted accessory structures.

YARD, SIDE. An open unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a sideline.

ZONING DISTRICT. Any portion of the city for which the regulations governing the use of land and structures are uniform.

ZONING MAP. The zoning district map of the City of Whitewood, South Dakota, adopted as a part of this chapter, as amended from time to time as provided therein.
(Ord. 2004-03, passed 5-17-2004)

' **152.006 NONCONFORMING BUILDINGS. STRUCTURES AND USES OF LAND.**

Any otherwise lawful use of land, building or structure existing at the time of adoption of this chapter may be continued, maintained and repaired, except as otherwise provided in this section.

(A) *Continuation of nonconforming buildings, structures or uses.* The lawful occupancy and/or operation of a building, structure or use existing on the effective date of this chapter, or any amendment hereto, may be continued although such building, structure or use does not conform with the provisions hereof.

(B) *Extension of nonconforming uses in structures.* A nonconforming use may be extended throughout the structure provided that any person, firm or corporation so using an existing structure in nonconformity with the provisions of this chapter shall within six months from and after the effective date of this chapter, or any amendments hereto, secure from the Building Inspector of the city a certificate of nonconformity, which shall describe the use to which such structure is being used contrary to the provisions of this chapter and which entitles the holder thereof to continue such use until the same shall be discontinued, at which time such certificate of nonconformity shall be null and void and the holder thereof shall be required to comply with all other provisions of this chapter regulating the use of any such structure.

(C) *Alteration or enlargement of nonconformity buildings or structures.* A nonconforming building or structure shall not be added to or enlarged in any manner unless said building or structure, including additions and enlargements is made to conform to all of the regulations of the district in which it is located; however, if a building or structure is conforming as to use, but nonconforming as to yards or height, said building or structure may be enlarged or added to. No nonconforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of said building or structure is made to conform to all of the regulations of the district in which it is located.

(D) *Restoration of damaged nonconforming structures.* A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than 60% of its replacement cost may be restored, provided restoration is completed within one year of the date of the damage.

(E) *Termination of nonconforming buildings, structures or uses.* Except as hereinafter provided, any nonconforming building, structure or use which has been abandoned or discontinued for one year shall not thereafter be re-established.

(Ord. 2004-03, passed 5-17-2004)

152.007 RELATIONSHIP.

This chapter is not intended to interfere with or annul any other ordinance, rule or regulation, state statute, or other provision of law. Where the provision of this chapter impose restrictions different from those imposed by any other ordinance, rule or regulation, statute or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(Ord. 2004-03, passed 5-17-2004)

ZONING DISTRICTS AND MAP**152.020 ESTABLISHMENT OF ZONING DISTRICTS.**

For the purposes of this chapter, the city is divided into the following zoning districts:

- (A) General Residential 1 (GR1);
- (B) General Residential 2 (GR2);
- (C) General Residential 2A (GR2A);
- (D) Light Commercial/Office (LC/O);
- (E) Highway Service (HS);
- (F) Industrial Commercial (IND);
- (G) Government (GOVT); and
- (H) Park/Recreational (PR).

(Ord. 2004-03, passed 5-17-2004)

152.021 OFFICIAL ZONING MAP.

The location and boundaries of the zoning districts established by this chapter are denoted and defined as shown on the map entitled AZoning Map of the City of Whitewood@.

(Ord. 2004-03, passed 5-17-2004)

152.022 INTERPRETATION OF THE ZONING MAP.

(A) (1) Where, due to the scale, lack of detail or illegibility of the zoning map there is any uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Planning Commission shall make an interpretation of said map upon request of any person.

(2) Any person aggrieved by any such interpretation may appeal such interpretation to the Common Council.

(B) The Planning Commission and the Common Council, in interpreting the zoning map or deciding any appeal, shall apply the following standards.

(1) Boundaries shown as following or approximately following streets, highways or alleys shall be construed to follow the centerlines of such streets, highways or alleys.

(2) Boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be said boundary lines.

(3) Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.

(4) Boundaries shown as following or approximately following the centerline of streams, rivers or other continuously flowing watercourses shall be construed as following the channel centerline of such watercourses and the said boundaries shall be deemed to be at the limit of the jurisdiction of the city unless otherwise indicated.

(5) Boundaries shown as following or closely following the limits of political jurisdictions shall be construed as following such limits.

(6) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two zoning districts, the regulations of the more restrictive zoning districts shall govern the entire parcel in question, unless otherwise determined by the Common Council.

(Ord. 2004-03, passed 5-17-2004)

' 152.023 ZONING OF VACATED AREAS.

Whenever any street, alley or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

(Ord. 2004-03, passed 5-17-2004)

' 152.024 ZONING DISTRICT OF ANNEXED TERRITORY.

Any territory hereafter annexed shall automatically, upon such annexation, be classified as General Residential 1 (GR1) and be subject to all conditions and regulations applicable to property in such district.

(Ord. 2004-03, passed 5-17-2004)

' 152.025 SPECIAL SOILS AREAS

Upon recommendation of the Whitewood Planning Commission, the Common Council may designate, by resolution, Special Soils Areas within the City of Whitewood. Within those designated areas, the Building Official may require a technical review of soil conditions and engineered drawing

for any building within these areas prior to issuing a building permit. Cost of technical review and engineering shall be the responsibility of the applicant.

(Ord. 2018-01, passed 5/21/2018)

DISTRICT REGULATIONS

' 152.035 GENERAL RESIDENTIAL DISTRICT 1 (GR1).

(A) *Purpose.* To provide for the protection and future development of residential areas, excluding uses which are not compatible with residential use, but permitting certain nonresidential uses, which are of particular convenience to the residents of the district.

(B) *Permitted uses.* Property and buildings shall be used only for the following purposes:

(1) Detached single-family homes, which are of conventional construction and are constructed as per the adopted building code on site, containing a minimum of 700 square feet;

(2) Attached single-family homes, which are known as town homes (for the purpose of this section, these homes shall have a separation wall of not less than one-hour rated fire wall which goes from foundation through the roofline which clearly makes them individual single-family dwelling units);

(3) Duplexes;

(4) Detached single-family modular homes that are built in compliance with the codes adopted by the city and the state;

(5) Transportation and utility easements, alleys and rights-of-way;

(6) Temporary buildings for uses incidental to construction work which, buildings shall be immediately adjacent to said construction work and which, and buildings shall be removed upon completion or abandonment of the construction work;

(7) Accessory uses and structures normally associated with the above listed uses such as shelters for house pets, private garages and carports, children=s play-house and playground equipment, private greenhouses from which no product, are sold and parish houses. Structures, which are less than 120 square feet in area, may be permitted without a building permit and/or being placed on a foundation;

(8) Private day nurseries and kindergarten (up to 12 children per household; see ' 152.056(D)).

(C) *Uses permitted on review.* The Planning Commission and the Common Council may permit

the following uses upon review:

- (1) Mobile home parks (see ' 152.056(A));
- (2) Group care facilities for either children or adults;
- (3) Libraries, museums and historical monuments or structures;

(4) Churches or similar places of worship, with accessory structures, but not including missions, revivals, tents or similar structures. (For the purpose of this section, missions, revivals or similar uses shall be known as any activity which takes place outside the permanent structure which causes more traffic, noise and the like, than the primary use this section is not intended to prohibit activities such as preschool, Sunday School or similar activities which may take place outside the structure);

(5) Home occupations which are clearly incidental in nature and which no display except for regulated signage will be permitted on the exterior of the building being utilized in part for any purpose other described above or as described in ' 152.056(E);

- (6) Signs (see ' 152.059);
- (7) Private school;
- (8) Utility substations;
- (9) Bed and breakfast facilities; and

(10) All uses not specifically permitted within this district are subject to review by the Planning Commission and the Common Council.

(D) *Minimum lot requirements.*

(1) For each single-family dwelling, and buildings accessory thereto, served by a public or community sanitary sewer system, there shall be a lot area of not less than 7,500 square feet. For those single-family dwelling buildings accessory thereto, not served by a public or community sanitary server system, there shall be a minimum lot area of one acre; however, the area may be less than one acre if because of an adequate percolation test the State Department of Environmental Protection sets a lesser minimum acreage, which acreage shall be permitted.

(2) For churches and other principal and accessory buildings, other than dwellings, the lot area shall be adequate to provide the yard areas required by this section; however, the lot for a church shall not be less than 10,000 square feet.

(E) *Minimum yard requirements (see also ' 152.057).*

- (1) *Front yard.*

Whitewood - Land Usage

(a) For dwellings there, shall be a minimum front yard setback of 25 feet, and in no case shall an accessory building be located to extend into the front yard setback.

(b) All other permitted uses shall have a front yard setback of 35 feet.

(c) Lots having frontage on more than one street shall provide the required front yard along those streets.

(d) All new dwellings shall be placed parallel to the street.

(2) *Side yard.*

(a) For dwellings located on interior lots, the side yard shall be not less than eight feet in width.

(b) For detached buildings of accessory use, which are built to the rear of the dwelling, there shall be a side yard of not less than three feet.

(c) All uses, other than dwellings and buildings accessory thereto, shall set back from all side lot lines a distance of not less than 25 feet.

(3) *Rear yard.*

(a) For main buildings, there shall be a rear yard of not less than ten feet

(b) Detached buildings of accessory use, not used as dwellings, shall not be located closer to any rear lot line than three feet.

(F) *Maximum lot coverage by all structures.* Main and accessory buildings shall cover not more than 40% of the lot area.

(G) *Maximum height of structures.*

(1) No main building shall exceed two and one-half stories or 35 feet in height, except chimneys, flagpoles, spires, radio and television antennae, ventilators and other similar and necessary mechanical appurtenances pertaining to the permitted use, provided that they are not used for human occupancy.

(2) Accessory building shall not exceed 15 feet in height.

(3) Churches, schools and other public and semi-public buildings may exceed the height limitations if the minimum depth of the front, side and rear yards is increased one foot for each two feet by which the height of such structure exceeds the 35 feet height limit.

(Ord. 2004-03, passed 5-17-2004)

152.036 GENERAL RESIDENTIAL 2 (GR2).

(A) *Purpose.* To provide for the protection and future development of residential areas.

(B) *Permitted uses.*

(1) Detached single-family homes, which are of conventional construction and are constructed as per the adopted Building Code on site, containing a minimum of 700 square feet;

(2) Attached single-family homes, which are known as town homes. (For the purpose of this section these homes shall have a separation wall of not less than one-hour construction which goes from foundation through the roofline which clearly makes them individual single-family dwelling units);

(3) Duplexes;

(4) Detached single-family modular homes that are built in compliance with the codes adopted by the city and the state;

(5) Transportation and utility easements, alleys and rights-of-way;

(6) Temporary buildings for uses incidental to construction work which, buildings shall be immediately adjacent to said construction work and which, and buildings shall be removed upon completion or abandonment of the construction work;

(7) Accessory uses and structures normally associated with the above listed uses such as shelters for house pets, private garages and carports, children=s playhouse and playground equipment, private greenhouses from which no product, are sold and parish houses. Structures, which are less than 120 square feet in area, may be permitted without a building permit and/or being placed on a foundation;

(8) Private day nurseries and kindergarten (up to 12 children per household, see 152.056(D)); and

(10) Multi-family dwellings, apartments.

(C) *Uses permitted on review.* The Planning Commission and the Common Council may permit the following uses upon review:

(1) Group care facilities for either children or adults;

Whitewood - Land Usage

(2) Libraries, museums and historical monuments or structures;

(3) Churches or similar places of worship, with accessory structures but not including missions, revivals, tents or similar structures. (For the purpose of this section, missions, revivals or similar uses shall be known as any activity which takes place outside the permanent structure which causes more traffic, noise and the like, than the primary use this section is not intended to prohibit activities such as preschool, Sunday School or similar activities which may take place outside the structure);

(4) Home occupations which are clearly incidental in nature and which no display except for regulated signage will be permitted on the exterior of the building being utilized in part for any purpose other described above or as described in ' 152.056(E);

(5) Signs (see ' 152.059);

(6) Private schools;

(7) Utility substations;

(8) Bed and breakfast facilities; and

(9) All uses not specifically permitted within this district are subject to review by the Planning Commission and the Common Council.

(D) *Minimum lot requirement.*

(1) For each single-family dwelling and buildings accessory thereto, served by a public or community sanitary sewer system there shall be a lot area of not less than 7,500 square feet. For those single-family dwelling and buildings accessory thereto, not served by a public or community sanitary server system, there shall be a minimum lot area of one acre. If the State Department of Environmental Protection agrees to a lesser area, because of an adequate soil percolation test, then the area, which they agree to, shall be permitted.

(2) For churches and other principal and accessory buildings, other than dwellings, the lot area shall be adequate to provide the yard areas required by this section, however, the lot for a church shall not be less than 10,000 square feet.

(3) For multi-family dwellings served by a public or community sanitary sewer system there shall be a lot area of not less than 5,000 square feet, plus an additional 1,000 square feet for each dwelling unit. Multi-family dwellings not served by a public or community sanitary sewer system shall be permitted only on review of the Planning Commission and the Common Council and with approval of the State Department of Environmental Protection.

(E) *Minimum yard requirements (see also ' 152.057).*

(1) *Front yard.*

(a) For dwellings, there shall be a minimum front yard setback of 25 feet and in no case shall an accessory building be located to extend into the front yard setback.

(b) All other permitted uses shall have a front yard setback of 35 feet.

(c) Lots having frontage on more than one street shall provide the required front yard along those streets.

(d) All new dwellings shall be placed parallel to the street.

(2) *Side yard.*

(a) For dwellings located on interior lots, the side yard shall not be less than eight feet in width.

(b) For detached buildings of accessory use, which are built to the rear of the dwelling, there shall be a side yard of not less than three feet.

(c) All uses, other than dwellings and buildings accessory thereto, shall set back from all side lot lines a distance of not less than 25 feet.

(3) *Rear yard.*

(a) For main buildings there shall be a rear yard of not less than ten feet.

(b) Detached buildings of accessory use, not used as dwellings, shall not be located closer to any rear lot line than three feet.

(F) *Maximum lot coverage by all structures.* Main and accessory buildings shall cover not more than 40% of the lot area.

(G) *Maximum height of structures.*

(1) No main building shall exceed two and one-half stories or 35 feet in height, except chimneys, flagpoles, spires, radio and television antennas, ventilators and other similar and necessary mechanical appurtenances pertaining to the permitted use, provided that they are not used for human occupancy.

(2) Accessory building shall not exceed 15 feet in height.
(Ord. 2004-03, passed 5-17-2004)

' **152.037 GENERAL RESIDENTIAL 2A (GR2A).**

Whitewood - Land Usage

(A) *Purpose.* To provide for the protection, future development of residential areas and correct inconsistencies with the zoning ordinance and the development of the Twin Parks Subdivision within the city. Zoning GR2A will be limited in use to parcels identified within this section.

(B) *Permitted uses.* Permitted uses in Zone GR2A shall be the same as in GR2.

(C) *Uses permitted on review.* Uses permitted in review in Zone GR2A shall be the same as in GR2.

(D) *Minimum lot requirements.*

(1) For each single-family dwelling and building accessory thereto, served by a public or community sanitary sewer system there shall be a lot area of not less than the lot sizes noted on the preliminary plat of the Riley/Wolff Subdivision Development (a.k.a., Twin Parks Subdivision) dated February, 2005 and on file with the Whitewood Building Official. This lot size requirement is limited to the parcels within the development rezoned by this chapter to Zone GR2A.

(2) All other lot requirements stated in GR2 shall apply to GR2A.

(E) *Minimum yard requirements (see also ' 152.057).*

(1) Front yard requirements shall be the same as in GR2.

(2) Side yard:

(a) For dwellings located on interior lots, the side yard shall not be less than five feet in width. This side yard requirement is limited to the parcels within the development rezoned by this chapter to Zone GR2A; and

(b) All other side yard requirements stated in GR2 shall apply to GR2A.

(3) Rear yard requirements shall be the same as in GR2.

(F) *Maximum lot coverage by all structures.* Maximum lot coverage shall be the same as in GR2.

(G) *Maximum height of structures.*

(1) Maximum height of structures shall be the same as in GR2.

(2) Establishment of Zoning District General Residential 2A shall be limited to the following parcels of the Riley/Wolff Subdivision Development (a.k.a., Twin Parks Subdivision):

(a) Block 1: Lots 2 - 14;

(b) Block 2: Lots 10 - 16;

(c) Block 4: Lots 1 - 28; and

(d) Block 5: Lots 1 - 14.

(3) All other parcels within the development shall comply with adopted zoning requirements in force at the time of final platting.
(Ord. 2004-03, passed 5-17-2004)

' 152.038 LIGHT/COMMERCIAL OFFICE (LC/O).

(A) *Purpose.* To provide for personal and business services and general commercial uses.

(B) *Permitted uses.*

(1) Professional and general offices;

(2) Stores and shops of consumer goods and services nature, such as: drug, grocery, hardware, liquor, general stores and souvenir, gift, jewelry, arts and crafts shops;

(3) Eating and drinking establishments;

(4) Personal service establishments, such as barber and beauty shops, shoe repair shops, cleaning and laundry, real estate offices and funeral homes;

(5) Medical offices, hospitals;

(6) Financial and credit institutions;

(7) Churches;

(8) Commercial recreational structures and uses, such as theaters, bowling alleys;

(9) New and used motor vehicle sales, rental and repair including sales and service of trailers, boats, motorcycles, snowmobiles and travel trailers;

(10) Modular home sales including prefabricated and shell homes;

(11) Convenience stores;

(12) Signs (see ' 152.059);

Whitewood - Land Usage

(13) Museums, art galleries;

(14) Single-family, Multi-family dwellings, apartments, townhouses;

(15) Temporary buildings for uses incidental to a construction project. These buildings shall be immediately adjacent to the construction project and shall be removed upon completion or abandonment of the construction work; and

(16) Accessory uses and structures normally associated with the above listed uses such as equipment storage sheds.

(C) *Uses permitted on review.* The Planning Commission and the Common Council may permit the following uses upon review:

(1) Recreational vehicle parks (see ' 152.056(B));

(2) Veterinary clinics and kennels;

(3) Auditoriums, public and private schools and other public buildings;

(4) Any retail or wholesale office where sales are conducted totally of premises;

(5) Temporary uses such as Christmas tree sales;

(6) Bed and breakfast facilities; and

(7) All uses not specifically permitted within this district are subject to review by the Planning Commission and the Common Council.

(D) *Minimum lot requirements.*

(1) There shall be no minimum requirement for lot area when the building or use is served by a public or community sanitary sewer system.

(2) For those main buildings or uses not served by a public or community sanitary sewer system, there shall be a minimum lot area of one acre. If the State Department of Environmental Protection agrees to a lesser area because of an adequate soil percolation test, then the area, which they agree to, shall be permitted.

(E) *Minimum yard requirements (see ' 152.057).*

(1) *Front yard.* There is no front yard setback requirement.

(2) *Side yard.* No side yard is required, except that the width of a side yard, which abuts a residential district, shall be not less than 25 feet.

(3) *Rear yard.*

(a) There shall be no rear yard requirement when a commercial building abuts a rear alley of at least 12 feet in width.

(b) Where there is no such alley, there shall be a rear yard of not less than ten feet in depth.

(c) The depth of the rear yard, where a commercial district abuts a residential district or where a portion of the commercial building is used for a dwelling, shall be not less than 25 feet.

(F) *Maximum lot coverage by all structures.* Main and accessory buildings shall cover not more than 80% of the lot area.

(G) *Maximum height of structures.*

(1) No building or structure shall exceed three stories or 35 feet in height except chimneys, smokestacks, spires, flagpoles, ventilators, cooling towers and other similar and necessary mechanical appurtenances pertaining to the permitted use, provided that they are not used for human occupancy.

(2) Churches, schools and other public and semi-public buildings may exceed the height limitation if the minimum depth of the front and rear yards is increased one foot for each two feet by which the height of such structure exceeds the 35-foot height limit.

(Ord. 2004-03, passed 5-17-2004)

† **152.039 HIGHWAY SERVICES (HS).**

(A) *Purpose.* This district is established for the accommodation of those herein specified retail and business service activities that serve persons in automobiles traveling on streets and highways, and typically may be located along major street intersections or highway interchanges. These businesses generate a considerable volume of vehicular traffic originating within the community or traveling into the community.

(B) *Permitted uses.*

- (1) Garden centers, greenhouses and nurseries;
- (2) Drinking and dining establishments, including fast food or drive-in establishments;
- (3) Service stations and convenience stores;
- (4) Recreational uses such as amusement parks, bowling alleys, ice rinks;

Whitewood - Land Usage

(5) Wholesale and distribution centers not exceeding 10,000 square feet in building size or storage area;

(6) Building material sales;

(7) Large retail outlets or mercantile stores;

(8) Farm implement and machinery sales;

(9) Repair garages;

(10) Motels and hotels;

(11) Single-family, Multi-family dwellings, apartments, townhouses;

(12) Signs (see ' 152.059);

(13) Temporary buildings for uses incidental to a construction project. These buildings shall be immediately adjacent to the construction project and shall be removed upon completion or abandonment of the construction work; and

(14) Accessory uses and structures normally associated with the above-listed uses, such as equipment storage sheds.

(C) *Uses permitted on review.* The Planning Commission and the Common Council may permit the following uses upon review:

(1) Recreational vehicle parks (see ' 152.056(B));

(2) Veterinary clinics and kennels;

(3) Sawmills;

(4) Bed and breakfast facilities; and

(5) All uses not specifically permitted within this district are subject to review by the Planning Commission and the Common Council.

(D) *Minimum lot requirements.*

(1) There shall be no minimum requirement for lot area when the building or use is served by a public or community sanitary sewer system.

(2) For those main buildings or uses not served by a public or community sanitary sewer system, there shall be a minimum lot area of one acre. If the State Department of Environmental Protection agrees to a lesser area because of an adequate soil percolation test, then the area, which they agree to, shall be permitted.

(E) *Minimum yard requirements (see ' 152.057).*

(1) *Front yard.* There is no front yard setback requirement.

(2) *Side yard.* No side yard is required except that the width of a side yard, which abuts a residential district, shall be not less than 25 feet.

(3) *Rear yard.*

(a) There shall be no rear yard requirement when a commercial building abuts a rear alley of at least 12 feet in width.

(b) Where there is no such alley, there shall be a rear yard of not less than ten feet in depth.

(c) The depth of the rear yard, where a commercial district abuts a residential district or where a portion of the commercial building is used for a dwelling, shall be not less than 25 feet.

(F) *Maximum lot coverage by all structures.* Main and accessory buildings shall cover not more than 80% of the lot area.

(G) *Maximum height of structures.* No building or structure shall exceed three stories or 35 feet in height except chimneys, smokestacks, spires, flagpoles, ventilators, cooling towers and other similar and necessary mechanical appurtenances pertaining to the permitted use, provided that they are not used for human occupancy.

(Ord. 2004-03, passed 5-17-2004)

' **152.040 INDUSTRIAL COMMERCIAL (IND).**

(A) *Purpose.* This Industrial District is established to provide areas which the principal use of land is for manufacturing and assembly plants, processing, storage, large warehousing, wholesaling and distribution in which operations are conducted so that noise, odor, dust and glare area are controlled.

(B) *Permitted uses.*

- (1) Large scale contractors equipment storage yards;
- (2) Freighting or trucking yards or terminals;
- (3) Large and small manufacturing facilities;
- (4) Signs (see ' 152.059);

(5) Temporary buildings for uses incidental to a construction project. These buildings shall be immediately adjacent to the construction project and shall be removed upon completion or abandonment of the construction work; and

(6) Accessory uses and structures normally associated with the above listed uses such as equipment storage sheds.

(C) *Uses permitted on review.* The Planning Commission and the Common Council may permit the following uses upon review:

- (1) Railroad yards;
- (2) Machine shops; and

(3) All uses not specifically permitted within this District are subject to review by the Planning Commission and the Common Council.

(D) *Minimum lot requirements.*

(1) There shall be no minimum requirement for lot area when the building or use is served by a public or community sanitary sewer system.

(2) For those main buildings or uses not served by a public or community sanitary sewer system, there shall be a minimum lot area of one acre. If the State Department of Environmental Protection agrees to a lesser area because of an adequate soil percolation test, then the area, which they agree to, shall be permitted.

(E) *Minimum yard requirements (See ' 152.057).*

(1) *Front yard.* There is no front yard setback requirement.

(2) *Side yard.* No side yard is required except that the width of a side yard, which abuts a residential district, shall be not less than 25 feet.

(3) *Rear yard.*

(a) There shall be no rear yard requirement when a commercial building abuts a rear alley of at least 12 feet in width.

(b) Where there is no such alley, there shall be a rear yard of not less than ten feet in depth.

(c) The depth of the rear yard, where a commercial district abuts a residential district or where a portion of the commercial building is used for a dwelling, shall be not less than 25 feet.

(F) *Maximum lot coverage by all structures.* Main and accessory buildings shall cover not more than 80% of the lot area.

(G) *Maximum height of structures.* No building or structure shall exceed three stories or 35 feet in height except chimneys, smokestacks, spires, flagpoles, ventilators, cooling towers and other similar and necessary mechanical appurtenances pertaining to the permitted use, provided that they are not used for human occupancy.

(Ord. 2004-03, passed 5-17-2004)

152.041 GOVERNMENT (GOVT).

(A) *Purpose.* This district will consist of land, which owned by a government entity and is not classified in another zoning district.

(B) *Permitted uses.*

(1) Federal-, state-, county- or city-owned buildings. Structures that house the following shall be permitted: police, fire, public works, courthouses, City Hall, community centers or any similar in use which is in the best interest of the public;

(2) Federal, state, county or city owned storage yards or maintenance facilities;

(3) Public parking lots or areas;

(4) Public waterways, drainages or spillways;

(5) Public landfills, sewer lagoons, water treatment facilities or similar uses;

(6) Temporary buildings for uses incidental to a construction project. These buildings shall be immediately adjacent to the construction project and shall be removed upon completion or abandonment of the construction work; and

Whitewood - Land Usage

(7) Accessory uses and structures normally associated with the above listed uses such as equipment storage sheds.

(C) *Uses permitted on review.* All uses not specifically permitted within this District are subject to review by the Planning Commission and the Common Council.

(D) *Minimum lot requirements.*

(1) There shall be no minimum requirement for lot area when the building or use is served by a public or community sanitary sewer system.

(2) For those main buildings or uses not served by a public or community sanitary sewer system, there shall be a minimum lot area of one acre. If the State Department of Environmental Protection agrees to a lesser area because of an adequate soil percolation test, then the area, which they agree to, shall be permitted.

(E) *Minimum yard requirements (see ' 152.057).*

(1) *Front yard.* There is no front yard setback requirement.

(2) *Side yard.* No side yard is required, except that the width of a side yard, which abuts a residential district shall be not less than 25 feet.

(3) *Rear yard.*

(a) There shall be no rear yard requirement when a commercial building abuts a rear alley of at least 12 feet in width.

(b) Where there is no such alley, there shall be a rear yard of not less than ten feet in depth.

(c) The depth of the rear yard, where a commercial district abuts a residential district or where a portion of the commercial building is used for a dwelling, shall be not less than 25 feet.

(F) *Maximum lot coverage by all structures.* Main and accessory buildings shall cover not more than 80% of the lot area.

(G) *Maximum height of structures.* No building or structure shall exceed three stories or 35 feet in height except chimneys, smokestacks, spires, flagpoles, ventilators, cooling towers and other similar and necessary mechanical appurtenances pertaining to the permitted use, provided that they are not used for human occupancy.

(Ord. 2004-03, passed 5-17-2004)

' 152.042 PARKS/RECREATIONAL (PR).

(A) *Purpose.* This district is intended to be used for public recreation on publicly owned land.

(B) *Permitted uses.*

(1) Public recreation areas (to include, but not be limited to, playgrounds, picnic areas, bike paths or similar uses);

(2) Public areas which are used for baseball, softball, football, soccer or similar recreational uses;

(3) Uses, which are entertaining or recreational in nature and are approved by the Parks Board and Common Council; and

(4) Permanent structures may be permitted in this zoning district if they are incidental to the primary use. Said structures may be restrooms, equipment storage facilities, shelters, picnic areas and concession stands.

(C) *Uses permitted on review.* All uses not specifically permitted within this district are subject to review by the Planning Commission and the Common Council.

(D) *Minimum lot requirements.*

(1) There shall be no minimum requirement for lot area when the building or use is served by a public or community sanitary sewer system.

(2) For those main buildings or uses not served by a public or community sanitary sewer system, there shall be a minimum lot area of one acre. If the State Department of Environmental Protection agrees to a lesser area because of an adequate soil percolation test, then the area, which they agree to, shall be permitted.

(E) *Minimum yard requirements (see ' 152.057).*

(1) *Front yard.* There is no front yard setback requirement.

(2) *Side yard.* No side yard is required, except that the width of a side yard, which abuts a residential district, shall be not less than 25 feet.

(3) *Rear yard.*

(a) There shall be no rear yard requirement when a commercial building abuts a rear alley of at least 12 feet in width.

(b) Where there is no such alley, there shall be a rear yard of not less than ten feet in depth.

(c) The depth of the rear yard, where a commercial district abuts a residential district or where a portion of the commercial building is used for a dwelling, shall be not less than 25 feet.

(F) *Maximum lot coverage by all structures.* Main and accessory buildings shall cover not more than 80% of the lot area.

(G) *Maximum height of structures.* No building or structure shall exceed three stories or 35 feet in height except chimneys, smokestacks, spires, flagpoles, ventilators, cooling towers and other similar and necessary mechanical appurtenances pertaining to the permitted use, provided that they are not used for human occupancy.

(Ord. 2004-03, passed 5-17-2004)

SUPPLEMENTARY REGULATIONS

' 152.055 GENERALLY.

(A) In order to accomplish the general purpose of this chapter, it is necessary to give special consideration to certain uses because they are unique in nature, require large land areas, are potentially incompatible with existing development, or because the effects of such uses cannot definitely be foreseen.

(B) The following uses shall be subject to compliance with the regulations in this subchapter and with the procedure for authorizing uses permitted on review as set forth in ' 152.081.

(Ord. 2004-03, passed 5-17-2004)

' 152.056 DEVELOPMENT STANDARD FOR USES PERMITTED ON REVIEW.

In order to accomplish the general purpose of this ordinance, it is necessary to give special consideration to certain uses because they are unique in nature, require large land areas and are potentially incompatible with existing development.

(A) *Manufactured home parks/subdivisions.* The following development standards shall apply for all manufactured home parks, which shall be approved as a development permitted on review:

(1) *Minimum area of manufactured home park.* No park shall be allowed to open on less than two (2) acres.

- (2) Only manufactured homes shall be permitted, except for additions and accessory structures which may be constructed on-site.
- (3) *Minimum lot size.* Five thousand (5,000) square feet, exclusive of public street rights-of-way and private street easements.
- (4) *Street standards.*
 - (a) Public streets shall meet minimum standards of the subdivision ordinance or, in case of private streets, standards established by the city council in the approval process.
 - (b) Cul-de-sac roads shall have a maximum length of three hundred (300) feet and a minimum turnaround of forty-foot radius.
 - (c) Be accessible at all times to fire department, ambulance, police, sanitation and utility vehicles.
- (5) *Street lighting.* The developer shall furnish and install street lights in accordance with city standards. On private streets, lights shall be operated and maintained by the developer.
- (6) *Fencing and screening.* The developer shall install screening, opaque fencing or plantings on the front, side and rear perimeters of the manufactured home park, according to site plans approved by the planning commission.
- (7) *Shade trees.* The developer shall plant shade trees on the property. One (1) tree with a minimum trunk diameter of not less than one (1) inch shall be planted on each manufactured home lot. Trees shall be of varieties recommended by the city parks and recreation department.
- (8) *Drainage and storm sewers.* Per South Dakota State Drainage Law.
- (9) *Water/sewer facilities.* Per Chapter 51 & 52 of Whitewood City Ordinance.
- (10) *Utilities.* Per Utilities industry standards.
- (11) *Recreation areas.* A park and recreation area shall be provided having a minimum of one hundred fifty (150) square feet for each manufactured home site, consolidated into usable space. This requirement may be waived by the planning commission if the manufactured home park has minimum lot sizes of six thousand (6,000) square feet.
- (12) *Accessory buildings.* Accessory buildings shall meet minimum setbacks in 15.d below.
- (13) *Lot width.* Minimum fifty (50) feet.
- (14) *Perimeter setbacks.*

Whitewood - Land Usage

- (a) Twenty-five foot perimeter setback from all public rights-of-way.
 - (b) Any perimeter yard abutting a residential district shall maintain a fifteen-foot setback.
 - (c) All perimeter setbacks shall be maintained and landscaped.
- (15) *Lot setbacks.*
- (a) Front yard- Fifteen (15) feet from all road rights-of-way within the manufactured home park.
 - (b) Rear yard- Ten (10) feet.
 - (c) Side yard- Eight (8) feet.
 - (d) Accessory structures- Five (5) feet, side and rear.
- (16) *Off-street parking.* There shall be a minimum of two (2) paved, off-street parking spaces on each manufactured home lot, which may be located in the front or side yard.
- (17) *Storage space.* The manufactured home park may provide a paved storage area for boats, campers, R.V's, tec., for use only by tenants.
- (18) *Securing and skirting.* All manufactured homes and accessory structures shall be securely anchored to the ground, at intervals approved by the building official. Manufactured homes, once in their permanent location upon the lot, shall be fully skirted within sixty (60) days.
- (19) *Additions to manufactured homes.* Building permits shall be required for all additions, which shall meet all setback requirements. No additions or structures erected shall have a height greater than the height of the manufactured home to which it is attached; and shall be supported by a foundation approved by the building official.
- (20) *Signs.*
- (a) The developer shall install, in accordance with standards of the city, all road and street name signs.
 - (b) Each manufactured home park shall be permitted to display, on each frontage, one (1) identifying sign of maximum size of twenty-five (25) square feet.
- (21) *Guarantees to include improvements.* Guarantees may be required in an amount determined by the planning commission and approved by the city council, to assure completion of all requirements within this section.

(22) *General provisions.*

- (a) Sidewalks from the paved driveway to the main entry of the manufactured home shall be a minimum of thirty-six (36) inches in width.
- (b) Each manufactured home shall have an address of three-inch high letters mounted on the side fronting the street.
- (c) Each manufactured home space shall be clearly defined by permanent markers.
- (d) Each manufactured home space shall be serviced by the public water and sewer system. Manufactured homes that cannot be connected to the public water and sewer system shall not be permitted.
- (e) Manufactured homes shall not be used for commercial, industrial or other nonresidential uses, except home occupations as defined in Article II and permitted as a use permitted on review.

(23) *Application requirements.* The application shall be accompanied by three (3) copies of the plot plan drawn to scale, and prepared by a licensed engineer or architect. The following information shall be shown:

- (a) The location and legal description of the proposed manufactured home park.
- (b) Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the manufactured home park.
- (c) The proposed use of buildings shown on the site.
- (d) The location and size of all manufactured home spaces.
- (e) The location of all points of ingress and egress and internal traffic circulation pattern.
- (f) A landscaping plan.
- (g) The location of all lighting standards to be provided.
- (h) The location of all walls and fences, the indication of their height, and the materials of their construction.
- (i) The name and address of the applicant.
- (j) Such other architectural and engineering data as may be required to permit the building official and city council to determine if the provisions of this ordinance are being complied with.

- (k) An estimated timetable for project development.

Severability. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this ordinance which can be given effect without the invalid provisions or application.

(B) *Recreational vehicle parks.* The following property development standards are established to encourage an appropriate, safe, sanitary and attractive environment for the development of recreational vehicle parks.

(1) *Development standards.*

(a) Exposed ground surfaces in all areas of the recreational vehicle park shall be paved, covered with stone screenings or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(b) Low areas subject to periodic flooding shall not be developed except for such uses that are compatible with a flood prone area.

(c) The recreational vehicle park shall be located on a properly drained site graded when necessary to prevent standing water and soil saturation, which would be detrimental to structures, and to site use.

(d) No public rights-of-way shall dissect a recreational vehicle park.

(2) *Park size and density.*

(a) The minimum park area shall be two acres.

(b) The overall maximum density of the park shall not exceed 20 recreational vehicle sites per acre.

(c) Recreational vehicles shall be separated from each other and from other structures by at least ten feet. Any accessory structure such as attached awnings or carports shall, for purposes of this separation requirement be considered to be part of the recreational vehicle.

(d) Each site shall contain a stabilized vehicular parking pad of gravel, paving or other suitable natural unless the site will be used exclusively for tents.

(e) A minimum of 8% of the gross site area shall be set aside and developed as common use areas for open or enclosed recreational facilities.

(3) *General provisions.*

(a) Internal streets shall provide safe and convenient access to the sites. Construction and maintenance shall provide a smooth, hard dense, dust-proof, well-drained surface with the alignment and grade properly adapted to the topography. Such streets shall meet the following minimum requirements: Entrance and all two-way streets (no parking): 25 feet.

(b) Yards adjacent to public streets shall be a minimum of 25 feet in depth. Yards adjacent to residential property outside the park without an intervening street shall be at least 50 feet in width; provided, however, that this requirement may be reduced to a minimum of 25 feet upon adequate fencing and vegetative screening to protect occupants of adjoining properties from adverse influences within the park.

(c) Each park shall include a sanitary dumping station to be so located as not to create a traffic hazard on the main or circulating roads, and not to be a health hazard to the occupants of the park. Such dumping station shall be constructed to meet the minimum requirements of all applicable ordinances and regulations.

(d) Management headquarters, recreational facilities, toilets, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a recreational vehicle park are permitted as accessory uses to the park.

(e) All internal streets shall be lighted at night.

(f) There will be an egress and ingress access and no one-way streets.

(4) *Application for recreational vehicle park.*

(a) The applicant or his or her representative shall submit to the Planning Commission three copies of the application for the proposed recreational vehicle park. Such copies will be reviewed and approved by the Planning Commission, the Common Council and the Building Inspector.

(b) The application, including maps and narrative, shall contain the following information:

1. Name of the proposed recreational vehicle park;
2. Name and address, including telephone number of the applicant;
3. Name and address, including telephone number of the engineer responsible for park design, improvement design and surveys;
4. Date, north arrow and graphic scale;
5. Location of the proposed recreational vehicle park by legal description;
6. Boundary of the proposed park showing its location and dimensions;

Whitewood - Land Usage

7. Location of drainage ways and areas subject to periodic flooding within the proposed park;
8. Number, size and location of the proposed vehicle sites and other parking areas;
9. Location and widths of all points of entry and exit for vehicles and the internal circulation pattern;
10. Location and dimensions of any land to be reserved for recreational areas;
11. Location of all lighting standards to be provided within the proposed park;
12. Location of water and sewer lines;
13. Location of service buildings, sanitary stations and any other existing or proposed structures;
14. Location of all easements or rights-of-way within the proposed park;
15. Plans and specifications of the water supply, sewage disposal and sanitary stations; and
16. Plans and specifications of all buildings to be constructed within the proposed park.

(C) *Private day nurseries and kindergartens.* The facilities, operation and maintenance shall meet the requirements of the County Health Department, State Department of Social Services and any requirements made a part of the approval for the use on review.

(D) *Customary home occupations.* A customary home occupation is a gainful occupation or profession conducted by members of a family residing on the premises and conducted entirely within an enclosed structure; in connection with a home occupation, no display except a regulated sign, and no alteration to any building shall indicate from the exterior that the building is being utilized in part for any purpose other than a residential unit.

(1) The following occupations, subject to the requirements of the above paragraph, are permitted as customary home occupations:

- (a) Antique shops, provided, however, that outdoor display is prohibited;
- (b) Barber and beauty shops operated by only two members of the residence;
- (c) Dressmaker, milliner, seamstress, tailor, interior decorator;
- (d) Artist, sculptor, author;

(e) Professional office of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same, provided that not more than one paid assistant shall be employed; and

(f) Any other similar use which the Common Council deems to be a home occupation.

(2) Standards:

(a) Not more than 25% of the floor area in the structure can be used for the home customary occupation; and

(b) Professional signs for home occupations shall be permitted if attached to the building. Such signs shall not exceed three square feet in area.
(Ord. 2004-03, passed 5-17-2004)

152.057 MISCELLANEOUS EXCEPTIONS AND CONDITIONS.

The following are intended to supplement or qualify the specific district regulations set forth in 152.035 through 152.042:

(A) *Yard and building setback exceptions.* No yard, open space or lot area requirement for a building or structure shall be occupied by any other building or structure, except:

- (1) Bay windows and chimneys, not to exceed two feet;
- (2) Awnings and canopies, as provided for in the Uniform Building Code;
- (3) Fences and walls subject to the vision requirements of this section;
- (4) Flagpoles;
- (5) Landscape features such as planting boxes;
- (6) Overhanging roof, eave, gutter, cornice or other architectural features, not to exceed three feet;

Whitewood - Land Usage

(7) Open steps or stairs or open fire escapes, provided they do not cover more than 50 square feet;

(8) Open terraces and non-enclosed porches provided they do not cover more than 50 square feet; and

(9) Signs, subject to the regulations set forth in ' 152.059.

(B) *Averaging setbacks.*

(1) In a residential district, if two or more of the lots on one side of the street between two intersecting streets are improved with buildings at the time of the passage of this chapter, the average of the distances that the street walls of such buildings are from the street line shall be the established building line for such block frontage; however, in no case will a setback of more than 25 feet be required.

(2) Where a residential lot adjoins a commercial district within the same block frontage, the front yard of any such residential lot, for a distance of not more than 50 feet from the district boundary line, shall not be required to have a depth of more than one-half the required depth of 25 feet.

(C) *Visibility requirements.* The following provide for the maximum safety of persons using sidewalks and streets.

(1) On any corner lot, no wall, fence, sign or other structures, or plant growth shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 20 feet from the point of the intersection.

(2) No foliage, shrubs, hedges, trees or other obstructions shall be allowed in any street intersection or in any street within 20 feet of the street line of an intersecting street or within ten feet of any alley line.

(3) In any required front yard of any lot with a front driveway, except as provided in division (C)(1) above, no fence, wall, hedge or yard ornament shall be permitted which materially impedes vision across such yard above the height of three and one-half feet.

(D) *Conditions on use of lots and access availability.*

(1) No recorded lot shall be divided into two or more lots unless such division results in the creation of lots each of which conforms to all of the applicable regulations of the district in which the property is located. No reduction in the size of a recorded lot below the minimum requirements of this chapter shall be permitted.

(2) Where there are existing recorded lots in a residential district, which do not meet the minimum lot area requirement and are under separate ownership, single-family dwellings may be constructed as long as all other requirements, except lot size, are met.

(3) No accessory building shall be erected in any required yard and no separate or detached accessory building shall be erected within five feet of any other building.

(4) Where a permitted use of land involves no structures, such use, excluding agricultural uses, shall nonetheless comply with all yards and minimum lot area requirements applicable to the district in which located, as well as obtain any other license or permit applicable to that particular use.

(5) Where the dedicated street right-of-way is less than 50 feet, the depth of the front yard shall be measured starting at a point 25 feet from the centerline of the street easement.

(6) No dwelling shall be erected on or moved to a lot, which does not abut on at least one street for at least 25 feet. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress.

(7) All buildings shall be located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.
(Ord. 2004-03, passed 5-17-2004)

' 152.058 STORAGE, PARKING AND USE OF CERTAIN VEHICLES IN RESIDENTIAL AREAS.

These provisions shall apply to the storage, parking and use of certain vehicles on any lot occupied by a dwelling or on any lot in a residential district.

(A) *Major recreational equipment.* For purposes of this chapter, major recreational equipment is defined as including boats, boat trailers, travel trailers pick-up campers or coaches, motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. Such equipment may be parked anywhere on the residential lot if it is parked to conform to the setbacks required of an accessory building. No such equipment shall be used for living or housekeeping purposes when parked or stored on a residential lot or in a location not approved for such use.

(B) *Commercial vehicles.* Not more than one commercial vehicle per family living on the premises shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.

(C) *Unlicensed vehicles.* Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residential lot other than in completely enclosed buildings.

(Ord. 2004-03, passed 5-17-2004)

152.059 SIGNS, BILLBOARDS AND OTHER ADVERTISING STRUCTURES.

These conditions are established as a reasonable and impartial method of regulating advertising structures in order to ensure safe construction to reduce hazards at intersections, and to protect property values of the entire community; the regulations for signs and other advertising structures are as follows.

(A) In any zoning district where signs are permitted, the following general regulations shall apply.

(1) No sign shall be erected or maintained at any location where by reason of its position, wording, illumination, size, shape or color it may obstruct interfere with the view of, or be confused with any authorized traffic-control sign, signal or device. No sign shall be erected in any position where it obstructs or physically interferes with the driver=s view of approaching, merging or intersecting traffic.

(2) No illuminated sign where the light source moves or is not of constant intensity and color, or where any light bulb can shine directly into the eyes of any occupant of any vehicle traveling upon any highway, driveway or parking area or into any window of any residence within 300 feet, or where the illumination interferes with the visibility of readability of any traffic sign or device shall be permitted. This shall not be applied to prevent the erection or maintenance of signs, which convey changing information such as time or temperature, by words, letters or pictures represented by lights of uniform color on a black background.

(3) No illuminated sign shall be permitted within 50 feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property.

(4) No billboard or advertising sign shall be erected to exceed 20 feet above the ground level or 50 feet in length. The bottom coping of every ground sign shall be at least three feet above the ground or street level.

(5) All roof signs shall be so constructed as to leave a clear space of not less than six feet between the roof level and the lowest part of the sign. No portion of any roof sign shall project beyond an exterior wall. No roof sign shall be at any point over 24 feet above the roof level. Roof signs shall not exceed the height limit of the zoning district.

(6) Billboards and other similar outdoor advertising structures shall be erected or placed in conformity with the side and rear yard requirements of the district in which located; however, no billboard shall be erected or placed closer than within 100 feet of any residential district, and it shall be setback from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal use in such district; and for every square foot by which such billboard exceeds 100 square feet such setbacks shall be increased by one-half foot but not to exceed 300 feet.

(7) No advertising sign shall be located in any area designated by the Common Council as one of scenic beauty or historical interest.

(8) No building walls shall be used for display of advertising, except that pertaining to the use on the premises.

(9) Temporary signs may be erected or posted for a period not to exceed 60 days. Any sign posted for a longer period must meet the requirements for permanent signs. No temporary sign shall exceed 150 square feet in area.

(10) A sign shall not be suspended across public streets or other public places, except as permitted by the Common Council.

(11) No sign shall be placed in any public right-of-way except publicly owned signs, such as traffic-control signs, and directional signs.

(12) Signs erected and overhanging any sidewalk must be placed at least nine feet above the sidewalk and may extend over the sidewalk a distance equal to two-thirds the width of the sidewalk but in no case exceeding ten feet. This regulation does not imply any authority to grant the use of the public domain for private advertising.

(13) Pole signs shall be not over 30 square feet in area and shall be located not closer than ten feet to any street right-of-way line and five feet from any other property line.

(14) Professional signs for home occupations, where permitted, shall not exceed three square feet in area provided such sign is a wall sign attached to the building.

(15) The area of a sign shall be determined by the smallest circle, triangle or rectangle that can be used to enclose the sign, exclusive of supporting members that bear no message. A sign designed to be viewed from two opposite directions shall be considered as one sign, provided that the two sign faces shall not be more than two feet apart if parallel, nor form an angle of more than 90 degrees if angular. Where more than one sign is permitted on a lot, the net sign area shall be the sum of those signs designed to be viewed from one direction, and such signs shall be not less than 20 feet apart.

(B) In residential districts, the following regulations shall apply.

(1) For single-family and multi-family dwellings: nameplates not to exceed two square feet in area, shall be permitted for each dwelling unit; such nameplates shall indicate nothing other than name and/or address of the occupants, premises, announcement of boarders or customary home occupation.

(2) For multi-family and group dwellings: identification signs, not to exceed nine square feet in area, shall be permitted; such sign shall indicate nothing other than name and/or address of the premises, and the name of the management. Such sign shall be attached flush with the principal building and may have indirect illumination.

Whitewood - Land Usage

(3) Announcement of church, school or public building: bulletin boards or identification signs, not to exceed 30 square feet in area, shall be permitted; such bulletin boards or identification signs shall indicate nothing other than name and/or address of the premises, and schedule of services or other information relevant to the operation of the premises. Such sign shall be located not closer than one-half the required setbacks and may have indirect illumination.

(4) Only one sign per street frontage shall be permitted.

(5) Flashing or intermittent illumination is prohibited.

(6) Billboards and other advertising structures are prohibited.

(C) In the Commercial/Industrial District, the following regulations shall apply.

(1) For public recreation uses, community facilities and medical facilities: bulletin boards or identification signs shall not exceed 20 square feet in area.

(2) For gasoline service stations: two pole signs not exceeding 30 square feet each in surface area. Other business signs, the aggregate area of which does not exceed one square foot for each one lineal foot of lot adjoining a public street.

(3) For other permitted principal uses, business signs shall be permitted as incidental uses, not to exceed the number of signs nor to exceed the net area for all such signs permitted as follows.

(4) Business signs not to exceed two square feet of surface for each one lineal foot of lot fronting on a public street, but in no case shall the surface area be limited to less than 50 square feet. All signs shall be mounted either on buildings or on sign display devices affixed permanently to the ground. All signs shall be located not closer to any property line than one-half the required setbacks.

(D) In any district, the following signs shall be permitted:

(1) For each permitted or required parking area that has a capacity of more than four cars, one non-illuminating sign, not more than two square feet in area, designating each entrance to or exit from such parking area; and one non-illuminating sign, not more than nine square feet in area, identifying or designating the conditions of use of such parking area;

(2) One non-illuminated "For Sale" or "For-Rent" sign not exceeding four square feet in area advertising the sale, rental or lease of the premises on which the sign is located. A larger sign shall be permitted for two or more lots in single ownership or for properties in excess of 100 feet in width, provided that the area of such sign shall be increased on a graded scale of one square foot increase in area for each additional five feet of frontage over 100 feet, but in no case shall the sign exceed 200 square feet. Such sign shall be a ground or wall sign and located not closer than 20 feet from the street line;

(3) For each real estate subdivision that has been approved in accordance with the ordinances of the city, one sign not over 100 square feet in area, advertising the sale of property in such subdivision. Such sign shall be permitted only when located on some portion of the subdivision being advertised for sale and shall not encroach upon any required yard. Such sign may be illuminated, but no flashing, intermittent or animated illumination is permitted. Such sign shall be maintained only during such time, as some portion of the land is unsold. Permits for such sign shall be issued for a one-year period and may be renewed for additional one-year periods;

(4) For construction on or development of a lot, one sign, not more than 12 square feet in area, giving the names of contractors, engineers or architects, but only during the time that construction or development is actively underway;

(5) Signs established by, or by order of, any governmental agency; and

(6) For special events of public interest, one sign, not over 24 square feet in area and located upon the site of the event. Such sign shall not be erected more than 30 days before the event in question and shall be removed immediately after such event. Also directional signs, not more than three square feet in area, showing only a directional arrow and the name of the event of public interest. Such sign shall not be erected more than ten days before the event in question and shall be removed immediately after such event.

(E) *Unsafe and unlawful signs.* The following regulations shall apply to unsafe and unlawful signs and for the maintenance of signs: whenever it shall appear to the Building Inspector that any sign has been constructed or erected or is being maintained in violation of the terms of this section, or is unsafe or insecure, such sign shall either be made to conform with all sign regulations as provided by this section or shall be removed within ten days after written notification thereof by the Building Inspector. Such sign shall be removed at the expense of the owner or lessee thereof.

(F) *Permits and fees.* Permits and fees shall be regulated by ' 150.06.
(Ord. 2004-03, passed 5-17-2004)

' 152.060 RECREATIONAL VEHICLE/TRAILER PARKING.

(A) For the purpose of this section, **RECREATIONAL VEHICLES** shall be defined as watercraft and their trailers, motorized RV=s, travel trailers, pull trailers, pick-up campers, tent trailers and cases for boxes used for transporting recreational equipment or other private goods.

(B) Recreational vehicles shall be allowed to park for up to 48 hours on city right-of-way under the following conditions, unless otherwise prohibited.

(1) The recreational vehicle must not be parked in such a way as to block a motorist=s view of traffic signs or obscure the view at an intersection.

Whitewood - Land Usage

(2) The recreational vehicle must not in any way interfere with snow removal or other city maintenance of city streets and rights-of-way.

(3) No part of the recreational vehicle shall extend within 20 feet of the driving lane or be within ten feet of the centerline of any street.

(4) No part of the recreational vehicle/trailer shall be a safety factor, or damage to the property upon which it sits.

(C) All recreational vehicles found to be illegally parked or in violation of this chapter shall be tagged by the Police Department and must be moved within 48 hours.

(1) The 48-hour time frame shall be defined as concurrent 48 hours from the initial stop time.

(2) Any movement from the original parked position does not constitute a new period of time.

(3) Any recreational vehicle not moved within that time frame shall be towed by the city and the owner shall be responsible for the towing bill, any storage costs and, in addition, a fine of \$100 for violation of this chapter, plus damages if any; however, should the recreational vehicle be parked in such a manner as to be deemed an immediate threat to public safety, the Police Department may immediately tow said vehicle and the owner shall be responsible for the towing fee plus any storage costs.

(Ord. 2004-03, passed 5-17-2004)

ADMINISTRATION AND ENFORCEMENT**152.075 ADMINISTRATIVE OFFICIAL.**

(A) *Duties of the administrative official.* An administrative official, hereafter known as the Building Inspector; designated by the Common Council, shall administer and enforce this chapter. He or she may be provided with the assistance of such other persons, as the Common Council may deem necessary for the successful enforcement of this chapter. Should the Building Inspector find that any of the provisions of this chapter are being violated, he or she shall notify, in writing, the party or parties responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct the violation. He or she shall order discontinuance of illegal use of land; removal of illegal buildings or structures or of illegal addition, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violations of its provisions.

(B) *Building permits required.*

(1) No building or other structure shall be erected, constructed, enlarged, altered, improved, moved or demolished without a permit therefor, issued by the Building Inspector. Structures, which are less than 120 square feet in area, may be permitted without a building permit and/or being placed on a foundation.

(2) No building permit shall be issued by the Building Inspector except in conformity with the provisions of this chapter, unless he or she receives a written order from the Common Council in the form of an administrative review, special exception or variance as provided by this chapter. All applications for building permits shall be as required in Chapter 150 of this code of ordinances.

(C) *Construction and use to be as provided in application, plans and permit.* Building permits issued on the basis of plans and applications approved by the Building Inspector authorize only the use, arrangement and construction set forth in such approved plans and applications, any other use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

(Ord. 2004-03, passed 5-17-2004)

' **152.076 COMMON COUNCIL.**

(A) The Common Council shall review all recommendations of the Planning Commission in approving or denying uses on review, variances and amendments.

(B) The Common Council may reverse the recommendation of the Planning Commission by a majority vote of all its members.

(C) The action of the Common Council and the reason for rejection of the Planning Commission recommendation shall be reported in writing to the Planning Commission and the applicant.

(D) If no action is taken by the Common Council within 30 days of receipt of the planning Commission recommendation, the decision rendered by the Planning Commission is considered final.

(Ord. 2004-03, passed 5-17-2004)

152.077 PLANNING COMMISSION.

The Planning Commission shall assist the Common Council in an advisory capacity, in achieving the established developmental goals and intent of the ordinances of the city.

(A) Duties of the Planning Commission.

(1) The Planning Commission shall review all applications for uses on review, variances and amendments to this chapter. It shall also review all plans, plats or proposals including utility and facility proposals.

(2) In considering the request, the Planning Commission may require pertinent information from the applicant and may hold public meetings to solicit public input.

(B) Decisions of the Planning Commission. In addition to the request and additional information supplied by the applicant, the Planning Commission will consider any information furnished by persons present at the hearing and any written statements received, to arrive at a decision within 45 days to recommend to the Common Council. The recommendation may approve the request, approve the request with conditions imposed by the Planning Commission, postpone the recommendation for additional information, or deny the request. Only those conditions, which are deemed necessary for the furtherance of the general purposes of this chapter, shall be imposed. The Planning Commission may request the Common Council to extend the 45-day limit to allow further evaluation.

(C) Notice to Common Council. The recommendation of the Planning Commission on a use on review, variance or amendment will be forwarded to the Common Council in a motion of approval, disapproval or approval with conditions and the reasons for the recommendation.
(Ord. 2004-03, passed 5-17-2004)

152.078 VARIANCES.

The purpose of the variance is to modify the strict application of the specific requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his or her land; the variance shall be used only where necessary to overcome some obstacle, which is preventing an owner from using his or her lot as this zoning ordinance intended.

(A) Requirements for the granting of a variance. Before the Common Council shall have authority to grant a variance, the person applying for the variance must demonstrate that:

- (1) The granting of the variance will not be contrary to the public interest;
- (2) The literal enforcement of this chapter would result in unnecessary hardship;
- (3) By granting the variance contrary to the provisions of this chapter, the spirit of this

chapter will be observed; and

(4) The variance will not have the effect of allowing in any zoning district, uses prohibited in that zoning district or of lowering standards beyond that required by state law.

(B) *Variance procedure.*

(1) *Application.* After written denial of a Building Permit from the Building Inspector, a property owner may file a written request for a variance with the Finance Officer. The request shall contain:

(a) The applicant=s name and address and the names and addresses of all adjoining landowners;

(b) A detailed description of the variance requested and the need for the variance; and

(c) A narrative demonstrating that the requirements for granting variances as outlined above will be met if the variance is granted.

(2) *Fee:* the applicant shall pay the City Finance Officer the appropriate fee for a variance as designated in ' 150.06. These fees shall be utilized to help defray administrative costs of processing the application. Additional costs are required for mailings which are the applicant=s responsibility.

(3) The application will be than be given to the Planning Commission for consideration and a recommendation will be given to the Common Council.

(4) *Public hearing:* upon recommendation from the Planning Commission, the Common Council shall schedule a hearing and shall give ten days= notice of such hearing by publication in a legally designated paper. The applicant shall notify all adjoining landowners by certified letter at least five days prior to any public hearing.

(5) *Time limit:* the Common Council shall render a decision on the request for a variance within 15 days following the public hearing. The decision to grant a variance must be approved by three fourths of the full membership of the Common Council.
(Ord. 2004-03, passed 5-17-2004)

' **152.079 USE ON REVIEW.**

(A) *Application.*

(1) An application for a use on review shall be filed with the Finance Officer. The application shall indicate the location and intended use of the site the names of the property owners and existing land uses within 200 feet of the site and any other information pertinent to the request which the Planning Commission or Common Council may require. A list of property owners maybe obtained from the Finance Officer.

(2) *Fee:* the applicant shall pay the City Finance Officer the appropriate fee for a use on review as designated in ' 150.06. These fees shall be utilized to help defray administrative costs of processing the application. Additional costs are required for mailings which are the applicant's responsibility.

(B) *Authorization for the use on review.* The application will be given to the Planning Commission for its review and recommendation. The Planning Commission shall be given 60 days in which to study the effect of such proposed use upon the character of the neighborhood, traffic conditions, public utilities and other matters pertaining to the public health, safety and general welfare. No such use on review shall be approved until and unless the recommendation of the Planning Commission has been filed.

(C) *Public hearing.* After the Planning Commission has made its recommendation, the Common Council shall schedule a hearing and shall give ten days' notice of such hearing by publication in a legally designated paper. The applicant shall notify all property owners by certified letter within 200 feet at least five days prior to the public hearing of the pending application for the use on review and the hearing date. The Common Council may then vote to approve or deny the use on review.

(D) *Restrictions.* In the exercise of its approval, the Common Council may impose such conditions regarding the location, character or other features of the proposed use or building, as it may deem advisable in the furtherance of the general purposes of this chapter.

(E) *Issuance of permit.* Upon completion of the necessary application and approval of the Common Council, the Building Inspector shall issue the building permit subject to all applicable rules, regulations and conditions. All approved plans, conditions, restrictions and rules made part of the approval shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

(F) *Time limit and notification.* All applications for uses permitted on review shall be decided within 60 days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

(Ord. 2004-03, passed 5-17-2004)

' 152.080 AMENDMENTS.

The regulations, restrictions, areas and boundaries set forth in this chapter may from time to time be amended, supplemented, revised or repealed as conditions warrant and as provided by law in SDCL Title 11; no amendment shall become effective unless it shall have been proposed by or shall have been referred to the Planning Commission for review and recommendation. (Errors or oversights as may be found in this chapter as originally adopted shall be corrected under the normal amendment procedure.)

(A) *Standards for amendments.* The following conditions shall be met for all amendments.

(1) The proposed amendment shall be necessary because of substantially changed or

changing conditions of the area and districts affected.

(2) The proposed amendment shall be consistent with the purpose of this chapter and not in conflict with the Comprehensive Plan for the city.

(3) The proposed amendment shall not adversely affect any other part of this chapter.

(4) No new zoning district shall be created to contain an area of less than two acres. The two acres need not be under common ownership, or a minimum of one acre that adjoins the zone requested.

(B) *Amendment procedure.* The Common Council the Planning Commission, or the property owner(s) or his or her agent filing a written application with the Finance Officer may initiate amendments to this chapter. A request for amendment to this chapter shall follow the general procedures outlined below.

(1) *Application.* An application shall consist of a petition for a change in this zoning ordinance, accompanied by a letter containing the following:

(a) The petitioner=s name and address and the name and address of every person whom the application represents in the case of a joint interest application. When landowners within a zoning district petition the Common Council for a change of that district, the petition must be signed by 40% of the private landowners in such zoning district;

(b) If the proposed amendment would require a change in the zoning map, a legal description of the property and an illustrative map, plat or survey shall accompany the application;

(c) A detailed description of the need for the amendment stating, in the case of a proposed rezoning, the existing and proposed zoning district and the anticipated use or nature of the use to be developed thereon; and

(d) Fee: the applicant shall pay the City Finance Officer the appropriate fee for an Amendment as designated in ' 150.06. These fees shall be utilized to help defray administrative costs of processing the application. Additional costs are required for mailings which are the applicant=s responsibility.

(2) *Time limit.* The Planning Commission shall consider the proposed amendment and make its recommendation to the Common Council within 45 days of receipt of the application. The Planning Commission shall take into account the testimony of the applicant, a site inspection of the property in question (for a rezoning request), and the recommendations from other official bodies and the standards provided above.

(3) *Public hearing.* The Common Council shall hold a public hearing on the proposed amendment and shall give ten days notice of such hearing by publication in a legally designated paper. If the proposed amendment is for rezoning, the petitioner shall notify all landowners by certified letter within 200 feet of the outside boundaries of the area as to the rezoning request and the hearing date.

(4) *Common Council action.* The Common Council may vote to approve or deny the amendment or it may refer it back to the Planning Commission for further study or other action, as it may deem necessary. If the Common Council denies an amendment, the reason for denial shall be stated in writing and sent to the applicant. An applicant may not initiate another request for the same rezoning on the same property within 12 months from the date of the last action by the Common Council.

(Ord. 2004-03, passed 5-17-2004)

152.081 GENERAL PROVISIONS FOR APPLICATION FOR REGULATIONS.

(A) This chapter is intended to regulate the erection, construction, reconstruction, alteration and use of buildings and structures the uses of land. All regulations shall be uniform for each class or kind of building or use throughout each zoning district.

(B) The requirement set forth in this zoning ordinance shall be considered as minimum requirement, unless otherwise stated and may be exceeded by the individual property owner, except as hereinafter provided.

(1) No land shall be used or occupied except for conformity with the regulations prescribed for the zoning district in which said land is located.

(2) No building shall be constructed, converted, enlarged, reconstructed or moved, nor shall any building or part thereof be used or occupied except in conformity with the use regulations prescribed for the zoning district in which said building is located.

(C) Whenever, in the courts of administration and enforcement of this chapter, it is necessary or desirable to make any administration decision, then, unless other standards are provided in the ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this chapter or injurious to the surrounding neighborhood.

(Ord. 2004-03, passed 5-17-2004)

152.999 PENALTY.

(A) Any person who violates any provisions of this chapter or any amendment thereto, or who fails to perform any act required hereunder, shall be guilty, and, upon conviction thereof, shall be punished by a fine of not more than \$100 per day for each and every day the person is found to be in violation of this chapter, and in addition, shall pay all costs and expenses involved in the case. Any violation of this chapter is hereby declared to be a public nuisance per se.

(B) Any person, firm, company, corporation or agent or employee thereof who authorized, provides, installs, delivers, connects or in any manner provides electricity or natural gas to a building or structure shall be guilty.

(Ord. 2004-03, passed 5-17-2004)

CHAPTER 153: HISTORIC PRESERVATION

Section

- 153.01 Purpose
- 153.02 Definitions
- 153.03 Historic Preservation Commission created
- 153.04 Procedures of the Historic Preservation Commission (HPC)
- 153.05 Powers and duties of the HPC
- 153.06 Coordination with other city departments
- 153.07 Survey of local historic properties
- 153.08 City local register of historic properties
- 153.09 Criteria for local designation for individual properties, buildings, and structures
- 153.10 Nomination of individual structures to the local register
- 153.11 Notification of nomination of individual structures
- 153.12 Determination of City HPC on nomination of individual structures
- 153.13 Notification of determination sent to owners
- 153.14 Appeal
- 153.15 Action by Common Council on nomination of individual structures
- 153.16 Notification of designation
- 153.17 Consideration in assessment
- 153.18 Demolition and house moving of individually listed local register properties
- 153.19 Moving structures to a local individually designated property
- 153.20 Alteration or exterior remodel of individual local register properties, buildings or structures
- 153.21 Compliance with chapter required
- 153.22 Establishment of a Historic District and creation of a Historic District Commission
- 153.23 Certificate of appropriateness required for exterior alterations in Historic Districts
- 153.24 Certificate of appropriateness issued in case of extreme hardship
- 153.25 Appeal to Circuit Court
- 153.26 Compliance with this chapter required
- 153.27 Ordinary maintenance and repairs; correction of unsafe conditions
- 153.28 Prevention of demolition by neglect
- 153.29 Modification of Building Code to help the preservation of a historic property
- 153.30 Governing body=s power
- 153.31 Conformity with the approvals given

- 153.99 Penalty

153.01 PURPOSE.

Whereas the Legislature of the state of South Dakota has determined that the historical, architectural, archaeological, paleontological, and cultural heritage of this state is among its most important assets, it is hereby declared to be the purpose of this chapter to enable the city to engage in a comprehensive program of historic preservation, to promote the use and conservation of historic properties and to help in the development of these properties for the education, inspiration, pleasure and enrichment of the citizens of this city and this state.

(Ord. 2016-03, passed 6-6-2016)

' 153.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERATION. Any construction on or change to the exterior of a building, structure, or site including, but not limited to, the changing of siding or roofing materials and the changing, eliminating or adding of doors, windows, steps, fences, railings, porches, balconies, signs or other ornamentation. Ordinary maintenance and repairs shall not be considered an alteration.

CERTIFICATE OF APPROPRIATENESS. The document, issued by the Historic District Commission, that gives its approval for work to be done on property within the historic district.

COMMITTEE and STUDY COMMITTEE. The city's Historic District Study Committee.

DEMOLITION. Any act that destroys in whole or in part a building or structure.

EXTERIOR FEATURES. The architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, exterior features shall be construed to mean the style, material, size, and location of all such signs. Changes in the exterior features of a building or structure shall include proposed new construction or demolition.

EXTREME HARDSHIP. The inability of owners of a historic property to make reasonable use of their property. Extreme hardship occurs when a historic property cannot be used by the owner or a tenant because of its condition and the historic property cannot be rehabilitated for an amount of money that it would be reasonable for an owner to invest in a property.

HPC. The city's Historic Preservation Commission. The city's Historic District Commission is referred to by its full name.

NEW CONSTRUCTION. The act of making an addition to an existing building or structure or the erection of a principal or accessory building or structure.

ORDINARY MAINTENANCE AND REPAIRS. Work that corrects any deterioration or damage to a building or structure in order to restore it to its condition prior to the deterioration or damage. The work does not involve a change in the design, material, or outer appearance of the building or structure.

(Ord. 2016-03, passed 6-6-2016)

' 153.03 HISTORIC PRESERVATION COMMISSION CREATED.

(A) Pursuant to the authority granted by SDCL ' 1-19B-2, there is created for the city a historic preservation commission to be known as the Whitewood Historic Preservation Commission (HPC). The HPC shall consist of seven members, who shall be appointed by the Common Council with due regard to proper representation of such fields as history, architecture, urban planning, archaeology, paleontology, and law.

(B) All members of the HPC may reside within the city and shall serve for terms of three years and shall be eligible for reappointment. The terms of the original members shall be varied in order to assure that no more than one-half of the appointments shall be for a full three-year term with the remaining appointments divided between one and two year terms. Persons appointed to fill an unexpired term shall serve for the remainder of the term. Any member who fails to attend three consecutive meetings without presenting an explanation accepted by the HPC may be deemed to have abandoned the office and may be replaced as provided herein.

(Ord. 2016-03, passed 6-6-2016)

' 153.04 PROCEDURES OF THE HISTORIC PRESERVATION COMMISSION (HPC).

(A) The HPC shall elect annually a chair and vice-chair from its own membership. In addition to other duties, the chair shall be the spokesperson for the HPC and shall represent the HPC in its work with other city departments. The HPC shall meet at such times and places as may be determined by the HPC. A quorum shall consist of a majority of the commissioners in office and shall be required in order for the HPC to take action. In addition, a simple majority of the current membership shall be required for decisions involving buildings and structures and property in historic districts.

(B) The HPC shall prepare a biennial report for the Common Council, and it shall include information about any historic property that is threatened. The HPC may, subject to appropriation by the city, employ clerical assistants or consultants to help in carrying out its responsibilities under this chapter. Other persons on the city staff may be asked to assist the HPC. The HPC may adopt rules and regulations not inconsistent with the provisions of this chapter and state laws.

(C) No member of the HPC shall participate in the discussion about any matter or vote on any matter that may affect the property, income, or business interests of that member.
(Ord. 2016-03, passed 6-6-2016)

' 153.05 POWERS AND DUTIES OF THE HPC.

In addition to the powers and duties stated elsewhere in this chapter, the HPC shall take actions necessary and appropriate in order to accomplish the purposes of this chapter. These actions may include, but are not limited to, the following:

(A) To conduct surveys of local historic properties;

(B) To participate in planning and land-use processes undertaken by the city;

(C) To cooperate with the federal, state and county governments in the pursuance of the objectives of historic preservation;

(D) To contract, with the approval of the Common Council, with the state or the federal governments;

(E) To promote and conduct an educational and interpretive program on historic properties and issues within the city;

(F) To recommend ordinances and provide information for the purposes of historic preservation to the Common Council;

(G) To notify the Director of Equalization of the designation of any historic property by the city or by the U.S. Department of the Interior;

(H) To adopt written guidelines for making exterior changes to historic property based on the Secretary of the Interior's Standards for the Treatment of Historic Properties;

(I) To negotiate with owners of historic property and other interested persons when the historic property may be demolished, materially altered, remodeled, relocated or put to a different use;

(J) To assist the Historic District Study Committee when it investigates and reports on proposed historic districts;

(K) To assist owners of historic property and buildings and structures in historic districts in preserving their buildings;

(L) To assist in the review of projects on which review by the State Historic Preservation Office is required under SDCL ' 1-19A-11.1; and

(M)To attend informational and educational programs covering the duties of the HPC and current

developments in historic preservation.
(Ord. 2016-03, passed 6-6-2016)

‘ **153.06 COORDINATION WITH OTHER CITY DEPARTMENTS.**

(A) City departments shall give timely notice to the HPC of matters that will affect property on the National Register of Historic Places and the State Register of Historic Places and property within historic districts that have been designated by the Common Council. The HPC shall be given this notice about proposed work as soon as the proposal is received by the other city department or a study is begun on work that would be done by the other city department.

(B) The HPC shall promptly prepare its comments on the proposed work so that its comments will be received prior to a decision by the other city department. The HPC shall obtain the comments of the Historic District Commission and transmit them to the city department in a single report. The coordination and comments under this section are separate from the reviews, negotiations, and approvals that are provided for, when owners and applicants submit proposed work directly to the Historic District Commission.
(Ord. 2016-03, passed 6-6-2016)

‘ **153.07 SURVEY OF LOCAL HISTORIC PROPERTIES.**

In conducting a survey of local historic properties, the HPC shall comply with all applicable standards and criteria of the statewide survey undertaken by the South Dakota State Historical Society. The members of the HPC, its employees, and its agents shall be authorized to enter upon private property for examination and survey solely in the performance of its official duties and only at reasonable times. No member, employee, or agent of the HPC may enter any private property, building, or structure without the express consent of the owner or occupant.
(Ord. 2016-03, passed 6-6-2016)

‘ **153.08 CITY LOCAL REGISTER OF HISTORIC PROPERTIES.**

Pursuant to SDCL ‘ 1-19B-20, the city hereby creates the city local register of historic properties.
(Ord. 2016-03, passed 6-6-2016)

' 153.09 CRITERIA FOR LOCAL DESIGNATION FOR INDIVIDUAL PROPERTIES, BUILDINGS, AND STRUCTURES.

(A) Pursuant to SDCL ' 1-19B-20, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association are eligible for inclusion on the city local register of historic places if they satisfy at least one of the following criteria:

(1) The property is associated with events that have made significant contributions in the broad patterns of local, regional, or state history, including settlement, agriculture, commerce, and transportation;

(2) The property is associated with the lives of persons significant in the past of this city or state or the past of a region of this state;

(3) The property represents distinctive types, periods, or methods of construction; they represent the work of a master; they possess high artistic values; or they represent cultural or regional building patterns;

(4) The property is associated with prehistoric or historic archaeology;

(5) The property has historical, architectural, archaeological, and cultural significance;

(6) The property is suitable for preservation or restoration;

(7) The property has educational value;

(B) And, in addition, the following items shall be considered:

(1) The property's cost of acquisition, restoration, maintenance, operation or repair; and,

(2) The administrative and financial responsibility of any person or organization willing to underwrite all or a portion of such costs.

(Ord. 2016-03, passed 6-6-2016)

' 153.10 NOMINATION OF INDIVIDUAL STRUCTURES TO THE LOCAL REGISTER.

Nominations of individual properties, buildings or structures shall be made to the HPC on a form approved by the HPC and may be submitted by a member of the HPC, owner of record of the nominated property or structure, the Common Council, or any other person or organization. No nomination shall be submitted without the written consent of the owner of record of the nominated property or structure.

(Ord. 2016-03, passed 6-6-2016)

' 153.11 NOTIFICATION OF NOMINATION OF INDIVIDUAL STRUCTURES.

The HPC shall notify the owners and occupants of all individual property nominated to the local register of the date on which the HPC will hear the nomination. Written notification will be at least 30 days prior to the meeting. The city shall also publish a notice of the time and place of the meeting in the official newspaper of the city at least 30 days prior to the meeting of the HPC.
(Ord. 2016-03, passed 6-6-2016)

' 153.12 DETERMINATION OF CITY HPC ON NOMINATION OF INDIVIDUAL STRUCTURES.

Pursuant to SDCL ' 1-19B-21, the HPC shall adopt by resolution a recommendation that the nominated site, structure, property, or building does or does not meet the criteria for designation specified in ' 153.09. The resolution shall be accompanied by a report and these documents shall be provided for the Common Council's consideration. The report shall contain an explanation of the significance of the nominated site, structure, property, or building as it relates to the criteria for designation.
(SDCL ' 1-19B-21)
(Ord. 2016-03, passed 6-6-2016)

' 153.13 NOTIFICATION OF DETERMINATION SENT TO OWNERS.

A notice of the determination on individual structures shall be sent by certified mail to the owner and occupant of record of all property nominated to the local register. The notice shall include a copy of the report sent to the Common Council concerning the nomination and shall be sent within ten days of the HPC's adoption of a resolution.
(Ord. 2016-03, passed 6-6-2016)

' 153.14 APPEAL.

A determination by the HPC that the nominated property does not meet the criteria for a designation shall be a final decision unless the property owner files a written appeal with the City Finance Officer within 20 days of the postmarked date of the notice of determination.
(Ord. 2016-03, passed 6-6-2016)

' 153.15 ACTION BY COMMON COUNCIL ON NOMINATION OF INDIVIDUAL STRUCTURES.

The Common Council shall hold a public hearing on the proposed local designation of an individual site, structure, property or building, after giving written notice to the owners and occupants of the property 30 days before the hearing and after giving public notice 30 days prior to the hearing in the official newspaper. The Common Council shall, within 60 days after receiving the HPC's Resolution or the appeal from the owner, take one of the following actions:

(A) Accept the HPC recommendation and designate the property; or

(B) Reject the HPC's recommendation; or

(C) Reject the property owner's written appeal for designation; or

(D) Accept the property owner's written appeal for designation and designate the property.

(SDCL ' 1-19B-22)

(Ord. 2016-03, passed 6-6-2016)

' 153.16 NOTIFICATION OF DESIGNATION.

The Common Council shall give written notice to the owners and occupants of each local designated individual structure, property or building. Within 60 days, to meet the requirements of SDCL ' 1-19B-23, a permanent marker developed and approved by the HPC and provided by the property owner, shall be placed on or near the property indicating that the property has been designated.

(SDCL 1-19B-24)

(Ord. 2016-03, passed 6-6-2016)

' 153.17 CONSIDERATION IN ASSESSMENT.

The HPC shall file an original of the ordinance in the office of the Register of Deeds for the county. After the designation of a property as historic by the Common Council, the HPC shall notify the Director of Equalization of the county. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the Director of Equalization in assessing it for tax purposes.

(SDCL ' 1-19B-24 and SDCL ' 1-19B-25)

(Ord. 2016-03, passed 6-6-2016)

' 153.18 DEMOLITION AND HOUSE MOVING OF INDIVIDUALLY LISTED LOCAL REGISTER PROPERTIES.

(A) *Waiting period.* The chapter making an individual local designation shall require that a 180-day waiting period be observed prior to the demolition or removal of the designated property. The City Building Official shall immediately notify the HPC of any application for a demolition permit or a moving permit for a property individually listed on the local register.

(B) *Notice of intent to demolish or move.* The owner of any building or structure individually listed on the local register shall be required to provide written notice to the HPC of the owner's intent to demolish or move the building or structure and shall be required to post one sign conspicuously placed stating the intent to demolish or move the building or structure. The sign shall be provided by the HPC and placed prominently in the front yard of the property. The sign must be posted within seven days of the date of application and must remain posted for 180 days or until approval is received from the HPC.

(C) *Delay of demolition or moving.* A building or structure individually listed on the local register may not be demolished or moved for a period of 180 days from the date the HPC receives written notice from the property owner or a copy of the application from the City Building Official unless approval is given by the HPC at an earlier date. During this period, the HPC may attempt to preserve the property in any way allowed by SDCL Ch. 1-19B. An earlier approval may be given by the HPC when the plans ensure the continued maintenance of the historical, architectural, archaeological or cultural integrity and character of the property or when the owner would suffer extreme hardship, not including the loss of profit, unless a reduction in the required period were allowed.

(Ord. 2016-03, passed 6-6-2016)

' 153.19 MOVING STRUCTURES TO A LOCAL INDIVIDUALLY DESIGNATED PROPERTY.

Before a building or structure can be relocated to and erected on an individually designated property on the local register, the procedure described in ' 153.18 must be followed. If the building or structure proposed for the site does not meet the approval of the HPC, a permit shall not be issued for 180 days from the date the HPC receives a copy of the application from the office of the City Building Official. During this period, the HPC may negotiate with the property owner to attempt to find a reasonable alternative to any adverse effects on the individually designated property. An earlier approval may be given by the HPC under the provision of ' 153.18(C).

(Ord. 2016-03, passed 6-6-2016)

' 153.20 ALTERATION OR EXTERIOR REMODEL OF INDIVIDUAL LOCAL REGISTER PROPERTIES, BUILDINGS OR STRUCTURES.

(A) *Waiting period.* The ordinance making a local designation shall require that a 180-day waiting period be observed prior to the material alteration or remodeling of the individually designated property.

(B) *Notice of intent.* The owner of any building or structure individually listed on the local register shall be required to give written notice of the proposed action to the HPC for material alteration or exterior remodeling.

(C) *Posting of signs.* The owner of any building or structure individually listed on the local register shall be required to post a sign on the property indicating the intent to materially alter or remodel the building's exterior. The sign must be posted within seven days of the date of application and must remain posted for 180 days or until approval is received from the HPC.

(D) *Delay of alteration or exterior remodeling.* The owner of any building or structure individually listed on the local register may not materially alter or remodel the exterior during the period of 180 days from the date the HPC receives written notice of the owner's proposed actions unless approval is given by the HPC at an earlier date. During this period, the HPC may attempt to preserve the property in any way allowed by SDCL Ch. 1-19B. An earlier approval may be given by the HPC when the plans conform to the Secretary of the Interior Standards for Rehabilitation and ensure the continued maintenance of the historical, architectural, archaeological or cultural integrity and character of the property or when the owner would suffer extreme hardship, not including the loss of profit, unless a reduction in the required period was allowed.

(Ord. 2016-03, passed 6-6-2016)

' 153.21 COMPLIANCE WITH CHAPTER REQUIRED.

It is a violation of this chapter for any person to materially alter or remodel the exterior of a building or structure individually listed on the local register without following the provisions of this chapter. It is also a violation of this chapter for any person to demolish, relocate, remove, construct, or erect a building or structure on individually listed property on the local register without following the provisions of this chapter.

(Ord. 2016-03, passed 6-6-2016) Penalty, see ' 153.99

' 153.22 ESTABLISHMENT OF A HISTORIC DISTRICT AND CREATION OF A HISTORIC DISTRICT COMMISSION.

(A) The Common Council may establish by ordinance one or more historic districts. The Common Council shall give written notification of the designation to the owners and occupants of the property in the historic district. The Common Council shall file a copy of the designation ordinance in the office of the Register of Deeds for the county and shall notify the Director of Equalization of the county. An ordinance establishing a historic district may be amended by following the procedures of this chapter and by having the Historic District Commission study and report on the proposed amendment.

(B) Whenever a historic district is established, the Common Council shall also establish a Historic District Commission. The Historic District Commission shall consist of seven members appointed by the Common Council with due regard to proper representation of fields such as history, architecture, architectural history, urban planning, archaeology, paleontology, and law. Where possible, the members shall be selected from residents of the proposed district. Members of the HPC may comprise all or part of the Historic District Commission. The appointments to membership on the Historic District Commission shall be arranged so that the term of at least one member will expire each year, and their successors shall be appointed in like manner for terms of three years. Persons appointed to fill an unexpired term shall serve for the remainder of the term. Any member who fails to attend three consecutive meetings without presenting an explanation accepted by the Historic District Commission may be deemed to have abandoned the office and may be replaced as provided herein.

(C) The Historic District Commission shall elect annually a chair and vice-chair from its own membership. In addition to other duties, the chair shall be the spokesperson for the Historic District Commission and shall represent the Historic District Commission in its work with other city departments. The Historic District Commission shall meet monthly at a regular time and place to be established by the Commission. The chair may cancel a scheduled meeting when there is no business to transact. A quorum shall consist of a majority of the commissioners in office and shall be required in order for the Historic District Commission to take action. In addition, a simple majority of the current membership shall be required for decisions involving property in the historic district.

(D) The Historic District Commission shall prepare a biennial report for the Common Council, and it shall include information about any property in the historic district that is threatened. The Historic District Commission may, subject to appropriation by the city, employ consultants to help in carrying out its responsibilities under this chapter. Persons on the city staff may be asked to assist the Historic District Commission including through the provision of clerical help that is needed. The Historic District Commission may adopt rules and regulations not inconsistent with the provisions of this chapter and state law.

(E) No member of the Historic District Commission shall participate in the discussion about any matter or vote on any matter that may affect the property, income, or business interest of that member.
(Ord. 2016-03, passed 6-6-2016)

153.23 CERTIFICATE OF APPROPRIATENESS REQUIRED FOR EXTERIOR ALTERATIONS IN HISTORIC DISTRICTS.

(A) After the designation of an historic district, no exterior portion of any building or other structure (including walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the district until after the Historic District Commission has received and approved an application for a certificate of appropriateness for the proposed work on exterior features of the building or structure.

(B) The owner or applicant shall submit an application that provides information about the proposed work on exterior features of the building or structure. The application shall include the material that is requested by the Historic District Commission. The owner or applicant shall be required to post signs on the property describing the proposed work.

(C) The city shall require a certificate of appropriateness to be issued by the Historic District Commission prior to the issuance of a building permit or other permit granted for the purposes of demolishing, constructing, or altering a building or structure. A certificate of appropriateness shall be required whether or not a building permit is required.

(D) For purposes of this chapter, Aexterior features@ shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, Aexterior features@ shall be construed to mean the style, material, size, and location of all such signs. Changes in the exterior features of a building or structure shall include proposed new construction or demolition.

(E) The Historic District Commission shall not review plans that involve changes to the interior of a building or structure. As to exterior features, the Historic District Commission shall only act for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, or outdoor advertising signs in the historic district which would be incongruous with the historical, architectural, archaeological or cultural aspects of the district.

(F) The Historic District Commission shall adopt guidelines to help in its review of proposed work. The guidelines shall include the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and they may include other guidelines appropriate for historic buildings and structures in the city. The Historic District Commission may expand or amend the guidelines it has adopted.

(G) Prior to the review of an application for a certificate of appropriateness, the Historic District Commission shall inform the owners of property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. In cases where the Historic District Commission deems it necessary, it may hold a public hearing concerning the application.

(H) If the Historic District Commission determines that the proposed construction, reconstruction, alteration, moving or demolition is appropriate, it shall promptly approve the application and shall issue a certificate of appropriateness. If the Historic District Commission determines that a certificate of appropriateness should not be issued, it shall place in its records the reasons for this determination and shall promptly notify the applicant, furnishing the applicant an attested copy of its reasons and its recommendations, if any. The Historic District Commission shall act on the application within 45 days, or it shall be deemed to have approved the application.

(Ord. 2016-03, passed 6-6-2016) Penalty, see ' 153.99

' 153.24 CERTIFICATE OF APPROPRIATENESS ISSUED IN CASE OF EXTREME HARDSHIP.

The Historic District Commission shall approve an application for a certificate of appropriateness in any case where the owner would suffer extreme hardship, not including loss of profit, unless the certificate of appropriateness were issued promptly.

(Ord. 2016-03, passed 6-6-2016)

' 153.25 APPEAL TO CIRCUIT COURT.

Any applicant aggrieved by a determination of the Historic District Commission may appeal to the Circuit Court.

(Ord. 2016-03, passed 6-6-2016)

' 153.26 COMPLIANCE WITH CHAPTER REQUIRED.

It is a violation of this chapter for any person to materially alter or remodel the exterior of a building or structure individually within a local historic district without following the provisions of this chapter. It is also a violation of this chapter for any person to demolish, relocate, remove, construct, or erect a building or structure within a local historic district without following the provisions of this chapter.

(Ord. 2016-03, passed 6-6-2016) Penalty, see ' 153.99

' 153.27 ORDINARY MAINTENANCE AND REPAIRS. CORRECTION OF UNSAFE CONDITIONS.

Nothing in this chapter shall be interpreted to prevent the ordinary maintenance or repair of any exterior feature of a designated property that does not involve a change in its design, material, or outer appearance. In any case where the building inspector determines that there are emergency conditions dangerous to life, health, or property involving a designated property, the building inspector shall order the remedying of these conditions without the approval of the HPC or the Historic District Commission. The Building Inspector shall promptly notify the chair of the commission affected by the emergency action.

(Ord. 2016-03, passed 6-6-2016)

' 153.28 PREVENTION OF DEMOLITION BY NEGLIGENCE.

Any owner of a designated state, local, or national historic property or a property within any established historic district shall be guilty of a Class 2 misdemeanor when the owner permits the deterioration of the property by intentional neglect and a building on the property is threatened with demolition because of this deterioration. Where appropriate, the HPC or the Historic District Commission may request a meeting with the owner in order to discuss the condition of the property. Each day that a violation continues to exist shall constitute a separate offense.
(Ord. 2016-03, passed 6-6-2016) Penalty, see ' 153.99

' 153.29 MODIFICATION OF BUILDING CODE TO HELP THE PRESERVATION OF A HISTORIC PROPERTY.

In order to promote the preservation and restoration of a historic property, the city may modify the application of the provisions of the city's building code to that historic property. The HPC and the local Historic District Commission shall meet with the city's Building Official before making its recommendation. The City Building Official, as designated by the Common Council, shall act upon the recommendation of the HPC or the local Historic District Commission. The City Building Official shall make a determination that the provisions of the code would otherwise prevent or seriously hinder the preservation or restoration of that historic property.
(SDCL ' 1-19B-54)
(Ord. 2016-03, passed 6-6-2016)

' 153.30 GOVERNING BODY'S POWER.

Pursuant to SDCL ' 1-19B-53, the Common Council may provide by regulations, special conditions, or restrictions for the protection, enhancement, preservation, and use of historic properties. Such regulations, special conditions, and restrictions may include appropriate and reasonable control of the use or appearance of adjacent or associated private property within the public view.
(Ord. 2016-03, passed 6-6-2016)

' 153.31 CONFORMITY WITH THE APPROVALS GIVEN.

All work performed pursuant to an approval given under this chapter shall conform to the provisions of the approval. It shall be the responsibility of the Historic District Commission to inspect, from time to time, any work being performed in order to ensure compliance with its approval. The city staff shall help with the inspections, and the city staff will take additional action that is needed, when work is being performed that is not in accordance with the approval given.
(Ord. 2016-03, passed 6-6-2016) Penalty, see ' 153.99

' 153.99 PENALTY.

Any person who performs work without following the provisions of this chapter shall be guilty of a violation of this chapter and shall be subject to a fine not exceeding \$100. Each day that a violation continues to exist shall constitute a separate offense.

(Ord. 2016-03, passed 6-6-2016)

