

TITLE XV: LAND USAGE

Chapter

- 150. MOBILE, TRAILER, MODULAR AND
MANUFACTURED HOUSING**
- 151. BUILDING CODES**
- 152. ZONING**
- 153. FLOOD DAMAGE PREVENTION**

CHAPTER 150: MOBILE, TRAILER, MODULAR AND MANUFACTURED HOUSING

Section

150.01 General regulations

150.02 Size, location and aesthetics of storage units in RV parks

Cross-reference:

Accessory buildings, outbuildings, garages and the like, see ' 151.01

' 150.01 GENERAL REGULATIONS.

(A) No mobile, trailer, modular or manufactured home or structure shall be located or constructed in any area within the Town of Pickstown designated or zoned by the Town of Pickstown as residential, commercial, agricultural, industrial, public or otherwise; but rather, the homes or structures shall only be located or constructed in areas specifically designated or zoned for the location or construction of those homes or structures, as may be specifically permitted by the municipal zoning map or other ordinance of the town.

(B) All mobile, trailer, modular or manufactured homes or structures shall comply in all respects with all ordinances and laws of the Town of Pickstown, including but not limited to those concerning zoning, alterations, additions and improvements, fences and buildings, relocation of buildings, municipal utilities and setback requirements. However, no construction or safety standards or codes, that are in conflict with or differ from United States Department of Housing and Urban Development standards, shall be applicable or imposed upon mobile, trailer, modular or manufactured housing or structures located or constructed within the Town of Pickstown.

(Ord. 99-114, passed 1-12-2000) Penalty, see ' 10.99

' 150.02 SIZE, LOCATION AND AESTHETICS OF STORAGE UNITS IN RV PARKS.

Storage units can be no larger than 80 square feet. All floors must be wood or wood composite raised at least 4 inches off the ground; no concrete floors are allowed. Exterior walls must be sided/colored steel. Roofs must be gabled with the height not to exceed 8 feet from the floor. The storage unit must be placed at the back of the camper pad. The color and accent color must be of a neutral palette: beige, tan, off white, grey. No unit can encroach on any existing easements.

(Ord. 2013-186, passed 11-13-2013)

CHAPTER 151: BUILDING CODES

Section

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- 151.02 Adoption of the Uniform Building Code
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MISCELLANEOUS PROVISIONS

' 151.01 ACCESSORY BUILDINGS, OUTBUILDINGS, GARAGES AND THE LIKE.

Accessory building or garage footing and foundation requirements are as follows.

(A) Accessory buildings, outbuildings, garages and other similar structures that are less than 120 square feet shall not be required to be placed upon a reinforced floating slab or any other type of permanent foundation, unless the slab or other foundation is determined by the Board of Trustees of the Town of Pickstown as being necessary based upon the proposed purpose and use of the structure.

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(B) Accessory buildings, outbuildings, garages and other similar structures that are 121 square feet to 320 square feet shall be placed on a minimum 4-inch reinforced floating slab with thickened edges of at least 6 inches in depth around perimeter.

(C) Accessory buildings, outbuildings, garages and other similar structures that are greater than or equal to 321 square feet, but less than or equal to 1,500 square feet shall be placed upon a minimum-6-inch, reinforced floating slab, with thickened edges of at least 8 inches in depth around the perimeter. No footing shall be required, unless other foundation or footing requirements are determined by the Board of Trustees of the Town of Pickstown as necessary, based upon the proposed purpose and use of the structure. Accessory buildings, outbuildings, garages and other similar structures that are greater than 1,500 square feet shall meet footing and foundation requirements for dwellings.

(D) Carports of any kind and nature are prohibited in the town, as having an undesirable effect, inhibiting community construction, growth and expansion. Maintaining aesthetic value, character and beauty of the town's neighborhood and the entire community is harmed by allowing carports. (Ord. No. 93-81, passed 6-22-1993; Am. Ord. 99-110, passed 4-15-1999; Am. Ord. 2012-176, passed 4-11-2012; Am. Ord. 2015-191, passed 4-8-2015) Penalty, see ' 151.99

' 151.02 ADOPTION OF THE UNIFORM BUILDING CODE.

The Town of Pickstown hereby adopts the Uniform Building Code, and the code is adopted in its entirety as if passed by separate ordinance by the Board of Trustees. (Ord. 86-44, passed 10-22-1986; Am. Ord. 87-51, passed 5-14-1987; Ord. No. 93-81, passed 6-22-1993; Am. Ord. 2001-125, passed 8-8-2001)

' 151.03 BUILDING PERMITS; FEES.

(A) No person shall undertake any building construction, to include without limitation site preparation work, erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting or demolishing any new or existing building within the Town of Pickstown, without first making application for and obtaining a building permit from the Town of Pickstown in accordance with the procedure herein provided.

(B) The Office of Building Inspector heretofore created is hereby continued. The Building Inspector shall be appointed by the Board of Trustees of the town and shall hold office until a successor is appointed.

(C) Application for a building permit shall be made upon a form as provided by the Building Finance Officer. An applicant for a building permit shall complete the application form and deliver it to the Finance Officer, together with other information as may be required by the Building Inspector, to include without limitation:

(1) Drawings showing exact location of proposed building or addition on the lot, to include distances to the lot lines from proposed building or addition.

(2) Drawings showing building layout, dimensions and details, to include footing and foundation detail and listing of proposed materials for utility hookups, siding and roofing.

(3) Drainage plan.

All questions and concerns concerning different aspects of the building codes are to be directed to the Building Inspector.

(D) A building permit shall not be issued without the prior approval of the Board of Trustees by action duly taken at any regular or special meeting of the Board. No action shall be taken, however, unless the completed application and additional information as required by the Building Inspector shall be submitted at least 2 days prior to the trustee meeting at which the application shall be considered.

(E) Upon approval of the building permit a 24-hour notice to the Finance Office of the municipality shall be given by applicant prior to commencement of any construction or utility hookups.

(Ord. 92-75, passed 8-12-1992; Am. Ord. 2012-178, passed 5-9-2012)

GENERAL REGULATIONS

' 151.15 PURPOSE OF SUBCHAPTER.

Whereas, the Town of Pickstown, being a relatively new town of the State of South Dakota, and having a desire to regulate the building and location of houses and industrial buildings within its community; as well as the preservation of the yards, open spaces and general aesthetic value of the community; and desiring to prohibit the influx and establishment of temporary or shanty-type housing within its community; and in an effort to promote the public health, safety, morals and general welfare of the Town of Pickstown, by the legitimate exercise of its police powers the following sections in this subchapter are hereby ordained and established by the Board of Trustees.

(Ord. 93-78, passed 2-24-1993)

' 151.16 SIZE AND CONSTRUCTION REQUIREMENTS.

(A) All residential buildings constructed within the town limits of the Town of Pickstown must have 1,200 square feet of enclosed space as a minimum. In calculating the enclosed space of any residential building, the garage, basement, crawl space and attics shall not be included in calculating footage.

(B) Prior to any building or construction of any building, the owner of the lot or proposed building must petition the Board of Trustees for a building permit. All buildings must be constructed in accordance

with the applicable town's zoning ordinances, including lot setbacks and use regulations.

(C) All residential buildings shall be constructed as single-family dwelling units only. Duplexes or other multiple-family dwelling units may be built only in areas zoned for this purpose, and only after the approval of the Board of Trustees of the Town of Pickstown. All residential buildings must contain a minimum of 1 bathroom, 1 living room, 1 bedroom and 1 kitchen.

(D) No person or entity may construct any residential building more than 3 stories or floors in height, excluding the basement of the building.

(E) All applications for building permits shall be accompanied by a sufficient drainage and landscaping plan to avoid the accumulation or collection of water on adjoining lots, and the plan shall be approved by the appropriate committee as well as the Board of Trustees.

(Ord. 93-78, passed 2-24-1993) Penalty, see ' 151.99

' 151.17 MODULAR HOMES AND TRAILER HOMES.

(A) No person may locate or permanently affix any mobile home or modular home which has been constructed in accordance with the Housing and Urban Development Code (HUD Code) on any lot or land located within any boundary designated as residential within the Town of Pickstown, South Dakota. However, modular homes constructed in accordance with the Uniformed Building Code (UBC Code) may be constructed and located within areas designated as residential according to the town's zoning map if the building is approved by any and all appropriate town committees, as well as the Board of Trustees of the Town of Pickstown.

(B) Any and all mobile homes or modular homes constructed with the HUD Code may be located and constructed in areas as zoned and designated for the location of buildings, according to the municipal zoning map.

(Ord. 93-78, passed 2-24-1993) Penalty, see ' 151.99

' 151.18 MUNICIPAL UTILITIES.

All residential and commercial buildings shall be served by the town=s system of water, sewer, garbage and electricity, as well as any other utilities approved by the Board of Trustees of the Town of Pickstown.

(Ord. 93-78, passed 2-24-1993)

' 151.19 CONSTRUCTION.

During the preconstruction period the land owner may not store any vehicles on any lot, including boats, campers or mobile homes of any size. After construction of a dwelling has been started, at the approval of the Board of Trustees and adjacent landowners, the home owner may place a mobile home not to exceed 400 square feet of living space, on the lot to live in during the time the building is being constructed. Temporary dwellings shall be allowed to remain on the lot for no more than 1 year without approval and renewal as provided above. All residential lots must be maintained by mowing grass and controlling weeds prior to and during the construction phase. If the lot or lots are not maintained as provided above, the town may mow and maintain the lots, and charge the owner of the lot for the reasonable charges and expenses thereof.

(Ord. 93-78, passed 2-24-1993) Penalty, see ' 151.99

' 151.20 RELOCATION OF OLDER BUILDINGS.

(A) No person, corporation or other entity may locate or move onto an existing lot any building which was previously attached or located upon any other property outside of the municipal limits unless that person petitions the Board of Trustees or any other appropriate committee for the proper permit to locate the building within the boundaries of the municipality.

(B) The relocation of any building as set forth above, shall not be approved or allowed by the Town of Pickstown unless the building is wired to current National Electric Code and South Dakota Electric Code standards, or to the satisfaction of the appropriate committee, Building Inspector or the Board of Trustees, that the current wiring in the building does not pose substantial risk of a fire hazard or hazard to the public health.

(Ord. 93-78, passed 2-24-1993) Penalty, see ' 151.99

' 151.21 ZONING.

All buildings constructed within the limits of the Town of Pickstown shall be constructed in accordance with all local zoning ordinances, including any setback requirements imposed by the zoning ordinances.

(Ord. 93-78, passed 2-24-1993)

' 151.22 FENCES, WALLS, FOLIAGE AND STRUCTURES.

(A) In any district zoned residential, no fence, wall, planting of foliage or structures shall be erected except as follows:

(1) On any lot, no fence, wall, planting of foliage or structure shall be allowed or permitted from the established current building line to any abutting lot line, which fence, wall, foliage or structure exceeds 4 feet in height;

(2) On interior lots, no fence, wall, planting of foliage or structure shall be permitted which exceeds 6 feet in height on any portion of the interior lot other than that portion as described in division (A)(1) above; and

(3) On corner lots, no fence, wall, planting of foliage or structure shall interfere with traffic visibility or exceed 3 feet in height above the abutting curb within a triangular area defined as follows: Beginning at the intersection of the protected curb lines of 2 intersecting streets, thence 30 feet along 1 curb line, thence diagonally to a point 30 feet from the point of beginning to the other curb line, thence to a point of beginning.

(B) Any and all deviations from these policies must be approved by the Board of Trustees of the Town of Pickstown.

(Ord. 99-111, passed 4-15-1999) Penalty, see ' 151.99

' 151.23 ALTERATIONS, ADDITIONS AND IMPROVEMENTS.

Prior to the owner of any building commencing construction which would alter, add on or substantially improve any existing building within the Town of Pickstown, the owner thereof shall apply for a building permit for any alterations, additions or improvements affecting the outside perimeter of the building, such as additions, porches, attached decks, unattached decks over 75 square feet, or extra rooms, excluding however any small additions made for heating and air conditioning units. There shall be no requirement to obtain a building permit prior to making repairs to any premises, such as the replacement of a complete roof, exterior or interior painting, and the changing of the size of any windows or the adding of additional windows to any premises. No galvanized tin will be allowed on the exterior of any structures.

(Ord. 93-78, passed 2-24-1993; Am. Ord. 2012-177, passed 4-11-2012) Penalty, see ' 151.99

' 151.99 PENALTY.

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

(B) Any violation of ' 151.03 shall be subject to a fine of \$200. Each day any construction work is done in violation thereof shall be a separate violation of ' 151.03.
(Ord. 92-75, passed 8-12-1992)

CHAPTER 152: ZONING

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GENERAL PROVISIONS**' 152.001 PURPOSE.**

These regulations shall be for the purpose of implementing the Pickstown temporary ordinances permitting development, use, construction and occupancy of land and buildings in prescribed districts in accordance with adopted standards.

(Ord. 89-66, passed 11-27-1989)

' 152.002 JURISDICTION.

These regulations shall apply for and within the corporate limits of Pickstown, South Dakota, and an area extending 3 miles in all directions from the platted perimeter of the original town site of Pickstown, South Dakota.

(Ord. 89-66, passed 11-27-1989)

' 152.003 ZONING MAP.

(A) *Purpose of map.* The purpose of the zoning map shall be to delineate zoning district boundaries.

(B) *Relation of map and text.* The official zoning map is a part of these regulations, and the map and the written text together shall be referred to as the zoning regulations. The map and the text shall be considered as separate and complete elements of the zoning regulations, and as so, the map can be amended without affecting the text, or the text can be amended without affecting the map.

(C) *Designation.* The official zoning map shall be certified by the President of the Board of Trustees and attested by the Finance Officer. Certificate shall include the date of the enactment and the number of the enacting law. All lawful amendments to the official zoning map shall be certified by the President of the Board of Trustees and attested by the Finance Officer. The certificate shall include the date of enactment and the number of the amending law.

(D) *Location of the map.* The official zoning map shall remain in the custody of the Finance Officer. The map shall, at any reasonable time, be subject to inspection by the public. Copies of the map shall be made available at the cost of duplication.

(Ord. 89-66, passed 11-27-1989)

' 152.004 DEFINITIONS.

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

ACCESSORY BUILDING OR USE. A structure, use or activity on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of structure. ***ACCESSORY BUILDINGS*** shall not encroach upon the required front or side yards. Provided further, that on a corner lot, ***ACCESSORY BUILDINGS*** shall not encroach upon the required front or side yards adjacent to the abutting streets. ***ACCESSORY BUILDINGS*** shall be no closer than 5 feet from the rear lot line or any other building.

(1) *Attached garages.*

(a) Attached garages shall not exceed the main floor area of the principal structure.

(b) Architectural design of attached garage must be similar to the principal structure.

(c) Height of an attached garage may not exceed that of the principal structure by more than 5 feet, with a maximum height of 35 feet.

(2) *Unattached garages/sheds.*

(a) Unattached garages/sheds shall not exceed a maximum height of 17 feet, and the side walls shall not exceed a maximum height of 12 feet.

(b) The total size of the unattached garage/shed shall not exceed 10% of the lot area, with a maximum size of 1,800 square feet.

BUILDING. Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property and forming a construction that is stable. The word **BUILDING** shall include the word **STRUCTURE**.

BUILDING DETACHED. A building having no party wall in common with another building.

BUILDING, HEIGHT OF. The vertical distance from the grade (elevation of the curb, sidewalk or average elevation of the ground around the structure) to the highest point of the coping of the flat roof, or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hop or gambrel roofs.

BOARD OF ADJUSTMENT. The Planning and Zoning Commission of Pickstown, South Dakota.

DWELLING. A building or portion thereof, used exclusively for residential occupancy, including 1-family, 2-family and multi-family dwellings, but not including hotels, motels, lodging or boarding houses or tourist homes.

DWELLING, 2-FAMILY. A building or portion thereof used for occupancy by 2 families living independently of each other, and doing their own cooking in the building, including apartments, group houses or row houses.

DWELLING, MOBILE HOME. A detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like. For the purposes of licensing and taxation in the unincorporated area of Charles Mix County, a **MOBILE HOME** will no longer be licensed as a **MOBILE HOME** after being set upon permanent foundations and meeting all requirements of the applicable zoning ordinances.

DWELLING, MULTI-FAMILY. A building(s) used for occupancy by 3 or more families living independently of each other and doing their own cooking in the building, including apartments, group houses or row houses.

DWELLING, SINGLE-FAMILY. A detached building used for residential occupancy by 1 family.

FAMILY. An individual or 2 or more persons related by blood or marriage or a group of not more than 5 persons who need not be related by blood or marriage living together as a single housekeeping unit in a dwelling unit.

FLOOR AREA. The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls, or from the centerline of walls separating buildings, but not including cellar or basement space.

FRONTAGE. All the property abutting upon 1 side of a street between the intersecting streets measured along the street line.

GARAGE, PRIVATE. An accessory building for primary use of storage of not more than 3 motor vehicles, and not more than 1 shall be commercial.

HOME OCCUPATION OR PROFESSION. Any use or activity customarily conducted entirely within a dwelling, and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no outside storage of equipment, and not more than 2 persons engaged in the occupation. No ***HOME OCCUPATION*** shall be conducted in an accessory building.

LOT.

(1) Includes the words *PLOT* or *PARCEL*; and

(2) A parcel of land occupied or intended for occupancy by a use permitted in this chapter, including 1 main building together with its accessory buildings and open spaces and parking spaces required by this chapter, and having its principal frontage upon the street.

LOT DEPTH. The mean horizontal distance between the front lot line and rear lot line of a zoning lot. In the case of a corner lot, the lot depth is the greater of the mean horizontal distances between the front lot lines and the respective side lot lines opposite each.

LOT OF RECORD. A lot or parcel of land that has access to a street, the deed to which has been recorded in the office of the County Registrar of Deeds prior to the adoption of this chapter and may be used for the uses in the district in which it is located except as hereinafter specified.

LOT WIDTH. The mean horizontal distance between side lot lines measured at right angles to the lot depth.

MAY is permissive.

MOTEL-HOTEL. A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are 6 or more guest rooms.

NONCONFORMING USE. Any building or land lawfully occupied by a use at the time of passage of this chapter which does not conform with the use regulations of the district within which it is located.

PARKING SPACE (OFF-STREET). A space on a lot or parcel accessible from the street, alley or road, not less than 9 feet wide and 20 feet long, exclusive of passageways.

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

SHALL is mandatory.

SIGN.

(1) Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

(2) Signs placed or erected by governmental agencies or nonprofit civic associations for the public purpose in the public interest shall, not be included herein, nor shall this include signs which are a part of the architectural design of a building.

SPECIAL EXCEPTION. A use not in specific conformity with the provisions of this chapter, which may be allowed by the Pickstown Board of Adjustment after public hearing.

STREET. A public thoroughfare which affords principal means of access to abutting property.

TOURIST ACCOMMODATION. A building in which more than 1, but not more than 5, guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

TRUSTEES. The chief legislative body or governing body of the town.

USE, SECONDARY. A use subordinate to primary or principal use and may not occupy more than 45% of the street floor (ground) level of a structure on lot area devoted to the primary use.

USED or OCCUPIED. Include the words ***INTENDED, DESIGNED OR ARRANGED TO BE USED OR OCCUPIED.***

VARIANCE. A modification of the provisions of this chapter, where strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property, or do not occur generally to land or buildings in the neighborhood, subsequent to the adoption of this chapter, whether in violation of the provision hereof or not.

YARD. A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this chapter.

YARD, FRONT. A yard extending along the full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front yard.

YARD, REAR. A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard.

YARD, SIDE. A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of the required minimum side yard, but excluding any area encompassed within a front yard or rear yard. Dimensions of minimum side yards specified in the district regulations of this chapter refer to the required width of each side yard rather than to the total width of both side yards, unless otherwise specified.

ZONING MAP. The ***OFFICIAL ZONING MAP OF PICKSTOWN, SOUTH DAKOTA.*** (Ord. 89-66, passed 11-27-1989; Am. Ord. 2013-184, passed 10-9-2013; Am. Ord. 2014-189, passed 9-10-2014)

' 152.005 NONCONFORMING STRUCTURES AND USES.

(A) Any building or other structure lawfully existing and in use conducted at the time of enactment of this chapter may be continued, even though the building, structure or use of land does not conform to the provisions of this chapter.

(B) Any nonconforming building or structure which may become damaged, destroyed by fire or the other casualty may be repaired and reconstructed with approval of the Board of Adjustment.

(C) Any building or structure, comprising a nonconforming use, which is not used for 12 months shall be required to be in complete conformance with the provisions of this chapter.

(D) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of an official.

(Ord. 89-66, passed 11-27-1989)

ESTABLISHMENT OF DISTRICTS

' 152.020 USE DISTRICTS.

Pickstown, South Dakota, is hereby divided into 6 zoning districts:

(A) Residential;

(B) Commercial;

(C) Agricultural (i.e.,Ag);

(D) Industrial;

(E) Public; and

(F) Residential-2, or M, Mobile Homes and Mobile Home Parks.

(Ord. 99-116, passed 1-12-2000)

' 152.021 DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed as following the lot lines;

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines;

(C) Boundaries indicated as approximately following municipal boundaries shall be construed as following municipal boundaries; and

(D) Boundaries indicated as parallel to, or extensions of, features indicated in division (A) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(Ord. 89-66, passed 11-27-1989)

' 152.022 EXTENT OF REGULATIONS WITHIN EACH DISTRICT.

(A) No building shall be erected, moved, converted, reconstructed or enlarged, nor shall any building or land be used, except in conformance with the provisions of this chapter.

(B) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this chapter. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.

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

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.023 AGRICULTURE DISTRICT USE REGULATIONS.

(A) *Intent.* This district is to provide for general agricultural use and for protection of agricultural resources from the detrimental effect of urban development.

(B) *Principle permitted uses.* Harvesting hay crop.

(C) *Special exception uses and structures.* Golf courses.

(D) *Minimum lot area, width and depth.* Agriculture: area-1 acre; width-100 feet; depth-200 feet. (Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.024 RESIDENTIAL DISTRICT USE REGULATIONS.

(A) *Intent.* This district is intended to provide for single-family residential dwellings within the existing ranges of municipal services or where municipal services can be obtained or developed economically, to protect its residential values and amenities and to enhance the residential quality of the area.

(B) *Mobile homes prohibited.* No mobile home dwelling units are authorized, and they are prohibited in the residential district, except in areas as hereinafter specifically allowed by ordinance by the governing body.

(C) *Principle permitted uses:*

- (1) Single-family dwellings;
- (2) Public parks, playgrounds or playfields; and
- (3) Community buildings owned and/or occupied by public agencies.

(D) *Permitted accessory uses and structures.*

(1) The following permitted accessory uses and structures are permitted in any residential district:

(a) Home occupations;

1. Home occupations or professions may be permitted in residential dwellings, as described in ' 152.004, so long as the home occupation or profession complies with the requirements of this division.

2. Such home occupation or profession is permitted if such occupation or profession:

- a. Is conducted entirely within the dwelling, and
- b. Is carried on and conducted only by the occupants of the dwelling, and
- c. Is clearly incidental and secondary to the use of the dwelling as a family

residence, and

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- d. Does not change the character of the dwelling as a residence, and
- e. Does not require outside storage of equipment, and
- f. Is not conducted in any accessory building (other than a garage), and
- g. Does not cause unnecessary or excessive traffic or noise in the neighborhood.

3. This division shall be enforced according to " 152.061 and 152.064, except division (D)(1)(a)2.g. above, may be enforced upon petition signed by a majority of residents who reside within a 600-foot radius of the home occupation or profession, requesting the Board to enjoin, such activity. Upon receipt of the petition with the necessary signatures thereon, the Board shall schedule a public hearing upon the petition. The Board will publish notice of the hearing by publishing the same in the town=s designated local newspaper for 1 week. At the hearing any person may appear and be heard. The owner of the residence, which conducts the home occupation or profession shall be given notice of the hearing, along with a copy of the petition by certified mail. The Board of Trustees shall hear all evidence and make a decision on the petition based upon a preponderance of the same evidence.
(Am. Ord. 94-86 passed 11-22-1994)

(b) Private garage; and

(c) Accessory building.

(2) No person may build an accessory building or structure upon a residential lot until after the primary dwelling or other authorized structure, as defined in division (E) below, has been completed. A detached garage or other accessory building may, however, be constructed simultaneously with the construction and erection of the primary dwelling or other permitted use as defined in division (E) below.

(E) *Special exception uses and structures:*

- (1) Churches, hospitals, nursing homes and libraries;
- (2) Two-family and multi-family dwellings;
- (3) Mortuary or funeral homes;
- (4) Public utilities; and
- (5) Nursery, primary, intermediate and secondary schools.

(F) *Required off-street parking.*

Single-family dwellings	Two parking spaces per unit
Two-family and multi-family	Two parking spaces per unit
Church and school	One parking space for each 4 seats in the principle gathering room
Hospital convalescent or nursing home	One space for each patient room plus 1 space for each staff physician
Mortuary, funeral home or library	One parking space for each 150 feet of floor area

(G) *Minimum lot area and width.*

Single-family dwelling	<i>Area</i> -12,000 square feet <i>Width</i> -90 linear feet
Two-family dwelling	<i>Area</i> -15,000 square feet <i>Width</i> -120 linear feet
Multi-family dwelling	<i>Area</i> -add 3,000 square feet for each additional dwelling unit in excess of 2 units up to 10 units; add 2,000 square feet for each additional unit in excess of 10 units <i>Width</i> -add 20 additional feet for each additional unit over 2

(H) *Minimum required front, side and rear yards.* Dwellings: front-25 feet; side-7 feet; rear-25 feet.

(I) *Maximum heights:*

Single-family	35 feet
Two-family	35 feet
Multi-family	35 feet

(J) *Permitted signs:*

- (1) Name plate on home occupation sign not to exceed 4 square feet and shall be attached to the respective building;
- (2) Temporary sign advertising the sale or lease of the premises not larger than 4 square feet;
- (3) Church and public building bulletin boards not larger than 20 square feet; and

(4) All signs shall be maintained in a neat and presentable condition. In the event that they shall become illegible or their use shall cease, they shall be removed within 15 days or be subject to a penalty as set forth in this chapter.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.025 LOCAL COMMERCIAL DISTRICT USE REGULATIONS.

(A) *Intent.* The Commercial District is intended to provide for areas of business not normally along busy thoroughfares, and which do not need major high access.

(B) *Principal permitted uses:*

- (1) Retail, business and finance establishments;
- (2) Public agencies;
- (3) Cultural and entertainment establishments;
- (4) Food and drink services;
- (5) Personal and professional services;
- (6) Parks and recreation;
- (7) Convenience automobile parking; and
- (8) Lodging facilities.

(C) *Permitted accessory uses and structures.* Residential units as secondary use to primary commercial uses.

(D) *Special exception uses and structures.* Automobile, implement and/or machine repair.

(E) *Minimum off-street parking requirements.* One parking space shall be required for each 200 square feet of floor space in the building used for commercial purposes. A parking space may be located on the same lot as building or within 300 feet of the building, provided it does not cross a divided street or divided highway.

(F) *Minimum lot area and width.* Commercial: area-2,500 square feet; width-25 linear feet.

(G) *Minimum required depth and front, side and rear yards.* Commercial: depth-100 feet; front-0; side-0; rear-0.

(H) *Maximum height.* Commercial: 35 feet.

(I) *Supplementary regulations.*

(1) All commercial establishments shall meet all regulations as required by the South Dakota Department of Environmental Protection and the Federal Environmental Protection Agency.

(2) Business signs are not to exceed 2 square feet of surface area for each 1 linear foot of lot fronting on a public street.

(3) All operations involving storage, except open storage for the sale of automobiles, trailers, boats and gasoline from service stations, are to be conducted within completely enclosed building. All permitted open storage is prohibited on the town rights-of-way.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.026 HIGHWAY COMMERCIAL DISTRICT USE REGULATIONS.

(A) *Intent.* The Highway Commercial District is intended to provide areas for those businesses that normally function along a busy thoroughfare and need major highway access.

(B) *Principle permitted uses:*

(1) Retail, business and finance establishments;

(2) Cultural and entertainment establishments;

(3) Food and drink services;

(4) Personal and professional services;

(5) Parks and recreation;

(6) Warehouses, wholesale establishments, storage units and the like; and

(7) Lodging facilities.

(C) *Permitted accessory uses and structures.* Residential units as secondary use to primary commercial use.

(D) *Special exception uses and structures.* Automobile, implement and/or machine repair.

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(E) *Minimum off-street parking requirements.* For the purpose of this section, 200 square feet of lot or floor area, which has a means of ingress and egress from an alley or street shall be deemed parking space for 1 vehicle. A space shall not occupy any part of any required front yard, but where open may be included as part of a required open space for side or rear yard. On corner or through lots, parking space may not be included as part of required yards lying adjacent to either street. Those parking spaces and access driveways shall be paved with asphalt or concrete. Parking spaces shall be reserved for the sole occupants of building or lot and visitors thereto. Churches, theaters, stadiums, auditoriums and other places of assembly may make arrangements for joint use of parking spaces as hereinafter specified. In a district every building or structurally altered, enlarged or increased in capacity, and every land use initiated subsequent to the adoption of this section shall be provided with minimum off-street parking facilities as follows:

(1) *Retail business:* One space for each 200 square feet of gross floor area;

(2) *Cultural and entertainment establishments:* One space for each 5 seats is provided or 1 space for each 100 square feet of gross floor area where fixed seating is not provided;

(3) *Food and drink services.* One space for each 3 seats or 1 space for each 200 square feet of gross floor area, whichever is greater;

(4) *Personal and professional services.* Barber and beauty shop: 2 spaces per chair; medical and dental: 2 spaces for each examining room or 1 space for each 300 square feet of gross floor area, whichever is greater.

(5) *Automobile, equipment and boat sales:* One space for each 300 square feet of gross floor area;

(6) *Hotels, motels and lodging houses:* One space for each rental unit plus additional spaces that may be required herein for related uses such as restaurants; and

(7) *Warehouses, wholesale establishments, furniture stores, storage units:* One space for each 1,000 square feet of gross floor area.

(F) *Off-street loading facilities requirements.* On the same lot with every building or part thereof, erected hereafter to be used for other than exclusive dwelling purposes or as an accessory use for dwelling purposes, there shall be provided on the lot, adequate space for motor vehicles in order to avoid undue interference with the public use of street or alleys. A space, unless otherwise adequately provided for shall include a 10-foot by 25-foot loading space within 15-foot height clearance, and 1 space shall be provided for each 20,000 square feet or fraction thereof of floor or lot area used for other than residence purposes.

(G) *Minimum lot area and width.* Highway commercial: area-10,000 square feet; 50 linear feet.

(H) *Minimum required depth and front, side and rear yards.* Highway commercial: depth-100 feet; front-15 feet; side-15 feet; rear-15 feet.

(I) *Maximum height.* Highway commercial-35 feet.

(J) *Supplementary regulations.*

(1) All highway commercial establishments shall meet all regulations as required by the South Dakota Department of Environmental Protection and the Federal Environmental Protection Agency.

(2) Business signs are not to exceed 2 square feet of surface area for each 1 linear foot of lot fronting on a public street.

(3) All operations involving storage, except open storage for the sale of automobiles trailers, boats and gasoline from service stations, are to be conducted within completely enclosed buildings. All permitted open storage is prohibited on the town rights-of-way.
(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.027 INDUSTRIAL DISTRICT USE REGULATIONS.

(A) *Intent.* The intent of the Industrial District is to provide space for certain commercial and industrial uses and structures which are able to meet specific performance standards. Thus, non-commercial and non-industrial uses are protected from undesirable environmental conditions.

(B) *Principle permitted uses.*

(1) The manufacturing, assembling, compounding, packaging, processing or treatment of products or raw materials conducted within a structure or metal container;

(2) Solid waste landfill sites in accordance with regulations set forth by the State of South Dakota Department of Health;

(3) Warehousing and storage;

(4) Repair of vehicles and machinery; and

(5) Freight handling.

(C) *Permitted accessory uses and structures.* Office as secondary use to primary industrial use.

(D) *Special exception uses and structures.*

(1) Food service; and

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(2) Wholesale and retail sales of machinery.

(E) *Minimum off-street parking.* Ten percent of lot area.

(F) *Performance standards.* To be a permitted industrial use, whether as a permitted use or an exception, the use must meet the following performance standards.

(1) *Fire hazard.* All flammable substances involved in any activity shall be handled in conformance with the latest edition of the Fire Prevention Code published by the American Insurance Association.

(2) *Noise.* Meet EPA standards.

(3) *Sewer and liquid wastes.* Meet EPA standards.

(4) *Air contaminants.* Meet EPA standards.

(5) *Odor.* Meet EPA standards.

(6) *Gases.* Meet EPA standards.

(7) *Vibration.* Meet EPA standards.

(G) *Minimum lot area and width.* Industrial: area-1 acre; width-500 feet.

(H) *Minimum required depth and front, side and rear yards.* Industrial: depth-not to exceed 7.5:1 ratio of lot depth to lot width; front-50 feet; side-where applicable, there shall be a minimum of 500 feet to the nearest edge of a public or private watercourse; rear-50 feet.

(I) *Maximum height requirement.* Industrial: 35 feet.

(J) *Prohibited uses.*

(1) Residential use except caretaker or watchman quarters;

(2) Lodging facilities;

(3) Churches, schools, hospitals and other public or semi-public users except for trade and vocational schools;

(4) Restaurants, unless for private use of 1 industrial facility located within the district; and

(5) Taverns.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.028 PUBLIC DISTRICT USE REGULATIONS.

(A) *Intent.* This district is intended to provide for public facilities, to encourage their location and activity with other compatible uses of land and to preserve land for future needs.

(B) *Principle permitted uses.*

- (1) Activities dedicated to public use;
- (2) Public buildings; and
- (3) Public recreation facilities

(C) *Permitted accessory uses and structures.* Uses and structures incidental to the principal uses of the district.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.029 RESIDENTIAL-2 OR M, MOBILE HOMES AND MOBILE HOME PARKS.

(A) *Intent.* This district is intended to provide for the location and placement of mobile, trailer, modular and manufactured housing within the existing ranges of municipal services or where municipal services can be obtained or developed economically, so as to protect the residential values, amenities, aesthetics and to enhance the residential quality of the community. The district is further intended to provide for the elderly, safe and helpful development of mobile home parks within the town, and within the area surrounding the town.

(B) *Principal permitted uses.* Mobile homes and mobile home parks.

(C) *Permitted accessory uses and structures:*

- (1) Home occupation;
- (2) Private garage; and
- (3) Accessory buildings.

(D) *Special exception uses and structures:*

- (1) Public utilities;
- (2) Community buildings owned and/or occupied by public agencies; and
- (3) Public parks, playgrounds or play fields.

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(E) *Required off-street parking.* Mobile homes: 1 space per mobile home or lot.

(F) *Minimum lot area and width.*

(1) A distance of 30 feet shall be maintained between mobile homes in all directions.

(2) Mobile homes shall be parked, placed or located a minimum of 10 feet from a lot line in all directions.

(G) *Permitted signs.*

(1) Home occupation signs shall not exceed 4 square feet and shall be attached to the respective building.

(2) Temporary signs advertising the sale or lease of the premises shall not exceed 4 square feet;

(3) Public building or use bulletin boards or signs shall not exceed 20 square feet; and

(4) All signs shall be maintained in a neat and presentable condition. In the event that they shall become illegible or their use shall cease, they shall be removed within 15 days, or the owner thereof shall be subject to a penalty as may be provided by town ordinance or the town may cause the sign to be removed at the owner=s expense.

(H) *Additional regulations.*

(1) All mobile, trailer, modular and manufactured housing, as well as all mobile home parks or courts, shall comply with all licensing procedures, health, zoning, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations of local, state and federal authorities.

(2) All utilities must be located under ground to each lot.

(3) Private sewage, electrical and water lines must be located upon each lot, including a water meter upon each lot.

(4) A request to place 1 or more mobile, trailer, modular or manufactured houses, or to locate any mobile home park or court, within the district shall specify the location and legal description of the proposed placement, and a plan to include property or lot dimensions, utilities services and other improvements, as well as interior roads and proposed mobile home sites for the proposed location of mobile home parks and courts.

(5) Mobile, trailer, modular and manufactured homes shall be set no higher than 16 feet above the finished grade level.

(6) All lots, as well as mobile, trailer, modular and manufactured homes placed thereon, shall comply with all other ordinances of the Town of Pickstown, South Dakota or parts thereof, that are not in conflict with any of the provisions herein, or any portion thereof.
(Ord. 99-116, passed 1-12-2000) Penalty, see ' 152.999

HEIGHT AND AREA EXCEPTIONS AND MODIFICATIONS

' 152.040 DISTRICT REGULATIONS.

The height and area regulations set forth under district regulations may be modified under certain special conditions or with respect to certain types of structures as specified herein.
(Ord. 89-66, passed 11-27-1989)

' 152.041 LOT AREA AND WIDTH.

Any lot of record in any agricultural, residential or commercial district at the time of passage of this chapter having less area than herein specified to a minimum of 5,000 square feet or width than herein required may be used for a single dwelling.
(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.042 FRONT YARD.

Where 30% or more of a block is improved with buildings with varying front yards, then any new buildings will be required to have a front yard which shall be the average of the front yards improved with buildings.
(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.043 CORNER LOTS.

A corner lot shall have a front yard and side yard adjoining the street of not less than 12 feet, except that the building width shall not be reduced to less than 32 feet, and no accessory building shall project beyond the required front yard on either street.
(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.044 SIDE YARD.

For a single-family dwelling, the required side yard shall not be less than 10% of the lot width, provided that no side yard shall be less than 5 feet.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.045 REAR YARD.

(A) The required rear yard may be reduced to 20% of the depth of the lot on any lot not exceeding 120 feet.

(B) An accessory building may be built within a required rear yard located at least 5 feet from the rear lot line, when occupying not more than 30% of the area of a required rear yard, and when located 5 feet from the side lot line, except as permitted by the Board of Adjustment.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.046 ALL YARDS.

An open, uncovered porch or paved terrace may extend not more than 14 feet into any required front yard. Cornices, canopies, eaves, outward edge of roof projections and other architectural features may project into required yard a distance not to exceed 36 inches, and must not project into required sideyards.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.047 HEIGHT.

Chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus may be erected to any safe height not in conflict with any other ordinance or law (35 feet).

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

ADMINISTRATION, ENFORCEMENT AND BUILDING PERMIT**' 152.060 ADMINISTRATION.**

An administrative official to be known as Building Inspector shall be designated by the Board of Trustees to administer and enforce this chapter. He or she may be provided with the assistance of other persons as the Trustees may direct.

(Ord. 89-66, passed 11-27-1989)

' 152.061 ENFORCEMENT.

(A) If the Building Inspector shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person and/or his or her agent responsible for violations, indicating the nature of the violation and ordering the action necessary to correct it.

(B) He or she shall order discontinuance of illegal use of land, buildings or structures or of additions, alterations or structural changes thereto; discontinuance of illegal use of land, buildings or structures of additions, alterations or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to ensure compliance with or prevent violation of this provision.

(Ord. 89-66, passed 11-27-1989)

' 152.062 BUILDING PERMIT REQUIRED.

No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor, issued by the administrative official. No building permit shall be issued except in conformity with the provisions of this chapter, except after written permission of the Trustees.

(Ord. 89-66, passed 11-27-1989) Penalty, see ' 152.999

' 152.063 APPLICATION FOR BUILDING PERMIT.

(A) All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and other matters as may be necessary to determine conformance with, and provide for the enforcement of, this chapter.

(B) One copy of the plans shall be returned to the applicant by the administrative official, after he or she shall have marked the copy either as approved or disapproved and attested to same by his or her signature on the copy. The original and 1 copy of the plans, similarly marked, shall be retained by the administrative official.

(Ord. 89-66, passed 11-27-1989)

(C) Once a building permit is obtained, it shall be valid for a period of 12 months. In the event that construction is continuing on the project for which the building permit was obtained, the building permit shall continue unexpired until the construction is completed. In the event that construction has not commenced on the building project covered by the building permit within 12 months, the building permit shall expire, and by virtue of the expiration, become null, void and of no force or effect. Any person who has obtained a building permit which has expired shall be required to obtain a new building permit and pay the necessary fees prior to commencing construction. The application for renewal of the building permit shall in all ways comply with this section.

(Ord. 2001-124, passed 8-8-2001)

' 152.064 SCHEDULE OF FEES, CHARGES AND EXPENSES.

The Trustees shall establish a schedule of fees, charges and expenses, and a collection procedure, for building permits, appeal and other matters pertaining to this chapter. This schedule of fees shall be posted in the office of the administrative official and may be altered or amended only by the Trustees.

No permit, certificate, special exception or variance shall be issued unless or until the costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proceedings before the Trustee unless or until preliminary charges and fees been paid in full.

(Ord. 89-66, passed 11-27-1989)

BOARD OF ADJUSTMENT

' 152.075 CREATION AND APPOINTMENT.

(A) In compliance with SDCL ' 11-4, the Trustees shall provide for the appointment of a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of this chapter, shall provide that the Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this chapter.

(B) The Board of Adjustment shall consist of 5 members, each to be appointed for a term of 3 years and removable for cause by the Board of Trustees upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. In lieu of appointment the Board of Adjustment, the governing body of any municipality having adopted and in

effect a zoning ordinance may act as and perform all the duties and exercise the powers of the Board of Adjustment. The President of the Board of Trustees shall be Chairperson of the Board of Adjustment as so composed. The concurring vote of at least 2/3 of the members of the Board as so composed shall be necessary to reverse any order, requirements, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in the ordinance.

(C) Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at other times as the Board may determine. The Chairperson, or in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

(D) The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each questions, or, if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board and shall be public record.
(Ord. 89-66, passed 11-27-1989)

' 152.076 POWERS.

The Board of Adjustment shall have the following powers:

(A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto;
(Ord. 89-66, passed 11-27-1989)

(B) To hear and decide special exceptions to the terms of any ordinance upon which the Board is required or authorized to pass under this chapter; to decide questions that are involved in determining whether a special exception should be granted; and to grant special exceptions with conditions and safeguards as are appropriate under any ordinance, or to deny special exceptions when not in harmony with the purpose and intent of any ordinance.

(1) A special exception shall not be granted by the Board unless and until:

(a) A written application, on a form to be provided by the Town of Pickstown, is submitted, along with the applicable application fee of \$35, indicating the section of the chapter under which the special exception is sought, and further stating the grounds upon which it is requested.

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(b) Notice, by publication in the official town newspaper, of a public hearing shall be given at least 15 days in advance of the hearing. The owner of the property for which a special exception is sought, or his or her agent, shall be notified by mail, as shall all other property owners within 150 feet of the property for which the special exception is sought. Notice shall also be posted on the subject property, at Town Hall, and in 1 other public place within the town at least 15 days prior to the hearing.

(c) A public hearing shall be held in accordance with the notice as given. Any party may appear in person, or by agent.

(d) The Board shall make written findings as to whether or not it is empowered under this section described or cited in the application to grant the special exception, whether or not the granting of an application would adversely affect the public interest, and that the application and notice procedures have been complied with as required in divisions (1)(a), (b) and (c) above.

(e) Before any special exception may be issued, the Board shall make written findings certifying compliance with any specific rules governing individual special exceptions as may be set forth in any applicable ordinance, and shall consider, by way of illustration only and not limitation, the following:

1. Ingress and egress to the subject property and proposed structures thereon, with particular reference to automotive and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe;
2. Off-street parking and loading areas where required, with particular attention to the items in division (e) 1. above and the noise, glare or odor effects of the conditional use on adjoining properties generally in the district;
3. Refuse and service areas, with particular reference to the items in divisions (e) 1. and 2. above;
4. Utilities, with particular reference to locations, availability and compatibility;
5. Screening and buffering with particular reference to type, dimensions and character;
6. Signs, if any, and proposed exterior lighting with particular reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
7. Required yards and other open space;
8. General compatibility with adjacent properties and other property in the district; and

9. Compliance with all other zoning requirements of the particular district other than that for which the particular conditional use is sought.

(2) It is not required that the Board make a specific finding on all or each of the above-described factors; and the Board may consider factors affecting the impact of granting or denying the application that are not listed above.

(3) In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with the particular ordinance that is the subject of the special exception application. Violation of any condition or safeguard, when made a part of the special exception, shall be deemed a violation of this chapter, and punishable as set forth by the particular ordinance or otherwise by this chapter.

(C) To authorize upon appeal in specific cases a variance from the terms of any ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice is done.

(1) A variance shall not be granted by the Board unless and until:

(a) A written application for a variance, on a form to be provided by the Town of Pickstown, is submitted, along with the applicable application fee of \$35, indicating the section of the particular ordinance under which the variance is sought, and further demonstrating:

1. That special conditions and circumstances exist which are peculiar to the property, land, structure or building involved, and which are not applicable to other properties, land, structures or buildings in the same district;

2. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by others;

3. That the special conditions and circumstances do not result from the actions of the applicant; and

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to others in the same district.

(b) No nonconforming use of neighboring properties, lands, structures or buildings in the same district, and no nonconforming use of properties, lands, structures or buildings in other districts, may be considered grounds for the issuance of a variance.

(c) Notice of public hearing shall be given as required and set forth in division (B)(1)(b) above;

(d) A public hearing shall be held in accordance with the notice as given. Any party may appear in person, or by agent.

(e) The Board shall make written findings as to whether or not the requirements of divisions (C)(1)(a), (b) and (c) have been complied with as required.

(f) The Board shall make further written findings as to whether or not the reasons set forth in the application justify the granting of the variance, and any variance that may be granted shall be the minimum variance that will make possible the reasonable use of the property, land, building and structure; and

(g) The Board shall make further written findings as to whether or not the granting of any variance will be in harmony with the general purpose and intent of the subject ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(2) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the particular ordinance that is the subject of the variance application. Violation of any condition or safeguard, when made a part of the variance, shall be deemed a violation of the ordinance, and punishable as set forth by the particular ordinance or otherwise by this chapter.

(3) Under no circumstances shall the Board grant a variance to allow a use not permissible under, or which is expressly or impliedly prohibited by, the terms of the particular ordinance in question or this chapter in the district concerned.
(Ord. 89-66, passed 11-27-1989)

' 152.077 APPEALS.

(A) Appeals to the Board of Trustees may be taken by any person aggrieved or by any officer, department, board or bureau the municipality affected by any decision of the administrative officer. Appeal shall be taken within a reasonable time as provided by the rules of the Board, by fixing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(B) An appeal to the Board of Trustees stays all proceedings in action appealed from, unless the officer from whom the appeal is taken shall file a certificate that by reason of facts stated in the certificate a stay would in his or her opinion cause imminent peril of life or property. In that case, proceed shall not be stayed otherwise than by a restraining order may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(C) The Board of Trustees shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(D) In exercising the powers mentioned in division (B) above, the Board of Trustees may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed and may make the order, requirement, decision or determination as ought to be made, and that end shall have all the power the officer from whom the appeal is taken.

(E) The concurring vote of 4 members of the Board of Trustees shall be necessary to revise any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which required to pass under any ordinance, or to effect an variation in an ordinance.

(F) Any person or persons, jointly or severally, aggrieved by decision of the Board of Trustees, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition duly verified, set forth that decision is illegal, in whole or in part, specifying the grounds of the illegality. Petitions should be presented to the court within 30 days after the filing of the decision in the office of the Board.

(Ord. 89-66, passed 11-27-1989)

' 152.999 PENALTY.

Any person, firm or corporation violating any provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof may be punishable by a fine up to \$100 for each and every day during which the illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues.

(Ord. 89-66, passed 11-27-1989)

CHAPTER 153: FLOOD DAMAGE PREVENTION

Section

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- 153.99 Penalty

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**' 153.01 STATUTORY AUTHORIZATION.**

(A) The Legislature of the State of South Dakota has in (statutes) SDCL " 9-36 and ' 7-18-14 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Trustees, of the Town of Pickstown, South Dakota, does ordain as follows.

(B) The Town of Pickstown elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security. (Ord. 2011-172, passed 10-12-2011)

' 153.02 FINDINGS OF FACT.

(A) The flood hazard areas of Pickstown are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public health, safety and general welfare.

(B) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage. (Ord. 2011-172, passed 10-12-2011)

' 153.03 STATEMENT OF PURPOSE.

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

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(F) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future blight areas; and

(G) Insure that potential buyers are notified that property is in a flood area.
(Ord. 2011-172, passed 10-12-2011)

' 153.04 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter uses the following methods:

(A) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging and other flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
(Ord. 2011-172, passed 10-12-2011)

DEFINITIONS

' 153.10 DEFINITIONS.

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

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AREA OF FUTURE-CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1% annual chance (100-year) flood based on future-conditions hydrology.

AREA OF SHALLOW FLOODING. A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, ***SPECIAL FLOOD HAZARD AREA*** is synonymous in meaning with the phrase ***AREA OF SPECIAL FLOOD HAZARD***.

AREA OF SPECIAL FLOOD-RELATED EROSION HAZARD. The land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the FIRM, Zone E may be further refined.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The water surface elevation of the 1% annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

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

BUILDING. See ***STRUCTURE***.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EROSION. The process of the gradual wearing away of land masses. This peril is not per se covered under this program.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1,1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXISTING STRUCTURES. See **EXISTING CONSTRUCTION**.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING.

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source;

(c) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in division (1)(b) and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division (1)(a) above.

FLOOD ELEVATION DETERMINATION. A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a 1% or greater chance of occurrence in any given year.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY or FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODPLAIN OR FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see **FLOODING**).

FLOODWAY. See **REGULATORY FLOODWAY**.

FLOODWAY ENCROACHMENT LINES. The lines marking the limits of floodways on federal, state and local floodplain maps.

FREEBOARD. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. **FREEBOARD** tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE. A man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

MAP. The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

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

NEW CONSTRUCTION. For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

SPECIAL FLOOD HAZARD AREA. See **AREA OF SPECIAL FLOOD HAZARD**.

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

START OF CONSTRUCTION. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit. The actual

start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance purposes, means:

- (1) A building with 2 or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
- (2) A manufactured home (a manufactured home, also known as a mobile home, is a structure built on a permanent chassis, transported to its site in 1 or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, **STRUCTURE** does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in division (3) of this definition, or a gas or liquid storage tank.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE. A grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. 2011-172, passed 10-12-2011)

GENERAL PROVISIONS

' 153.20 LANDS TO WHICH THIS CHAPTER APPLIES.

The chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Pickstown.
(Ord. 2011-172, passed 10-12-2011)

' 153.21 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the Town of Pickstown", dated September 12, 2006, with accompanying Town of Pickstown Flood Insurance Rate Maps and Flood Boundary Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.
(Ord. 2011-172, passed 10-12-2011)

' 153.22 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required to ensure conformance with the provisions of this chapter.
(Ord. 2011-172, passed 10-12-2011)

' 153.23 COMPLIANCE.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
(Ord. 2011-172, passed 10-12-2011)

' 153.24 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. 2011-172, passed 10-12-2011)

' 153.25 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2011-172, passed 10-12-2011)

' 153.26 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

(Ord. 2011-172, passed 10-12-2011)

' 153.27 SEVERABILITY.

If any section, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court, the remainder of the chapter shall not be affected.

(Ord. 2011-172, passed 10-12-2011)

' 153.28 CERTIFICATION.

(A) It is found and declared by the Town of Pickstown that severe (community) flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program and in order to effectively remedy the situation described herein, it is necessary that this chapter become effective immediately.

(B) Therefore, an emergency is hereby declared to exist, and this chapter, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

(Ord. 2011-172, passed 10-12-2011)

ADMINISTRATION**' 153.30 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.**

The Finance Officer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

(Ord. 2011-172, passed 10-12-2011)

' 153.31 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(A) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.

(B) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

(C) Review, approve or deny all applications for development permits required by adoption of this chapter.

(D) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(E) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(F) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the SD DENR, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(G) Assure that the flood carrying capacity with the altered or relocated portion of any watercourse is maintained.

(H) When base flood elevation data has not been provided in accordance with ' 153.21, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of " 153.40 through 153.42.

(Ord. 2011-172, passed 10-12-2011)

' 153.32 PERMIT PROCEDURES.

Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(A) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(B) Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;

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(C) A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of ' 153.41(B);

(D) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(E) Maintain a record of all such information in accordance with ' 153.31(B). Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (8) The necessity to the facility of a waterfront location, where applicable;
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (10) The relationship of the proposed use to the comprehensive plan for that area.
(Ord. 2011-172, passed 10-12-2011)

' 153.33 VARIANCE PROCEDURES.

(A) The Appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this chapter.

(B) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(C) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.

(E) Variances may be issued for new construction and substantial improvements to be erected on a lot of 2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in ' 153.32(B) have been fully considered. As the lot size increases beyond the 2 acre, the technical justification required for issuing the variance increases.

(F) Upon consideration of the factors noted above and the intent of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter as set forth in ' 153.03.

(G) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(H) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(I) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(a) Showing a good and sufficient cause;

(b) Determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) Determination that the granting of a variance will not result increased flood heights, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(d) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(J) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria outlined in divisions (A) through (I) above are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
(Ord. 2011-172, passed 10-12-2011)

PROVISIONS FOR FLOOD HAZARD REDUCTION

' 153.40 GENERAL STANDARDS.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

(G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 2011-172, passed 10-12-2011)

' 153.41 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in ' 153.21, 153.31(H) or 153.42(C), the following provisions are required:

(A) *Residential construction.* New construction and substantial improvements of any residential structure shall have the lowest floor (including basement), elevated to at least 1 foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this division as proposed in ' 153.32(A) are satisfied.

(B) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to least 1 foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this division. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.

(C) *Manufactured homes.* Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(Ord. 2011-172, passed 10-12-2011)

' 153.42 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with " 153.02, 153.03 and 153.04.

(B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of " 153.22, 153.32 and the provisions of " 153.40 through 153.42.

(C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to ' 153.21 or 153.31(H).

(D) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(E) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. 2011-172, passed 10-12-2011)

' 153.99 PENALTY.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$200 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town of Pickstown from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2011-172, passed 10-12-2011)