

Parker Zoning Regulations

Table of Contents

	Page
Article 1	
Chapter 1.01 – Title and Application	2
Chapter 1.02 – Ordinance Provisions	3
Chapter 1.03 – Official Zoning Map	4
Article 2	
Chapter 2.01 – General terms	6
Chapter 2.02 – Words and Phrases	6
Article 3	
Chapter 3.01 – City-Wide Regulations	21
Chapter 3.02 – Non-Conforming Uses	34
Chapter 3.03 – Adjustments to Yard Regulations	35
Chapter 3.04 – District Regulations	36
Article 4	
Chapter 4.01 – Generally	61
Chapter 4.02 – Zoning Administrator	61
Chapter 4.03 – Board of Adjustment	63
Chapter 4.04 – Procedures for Applications	63
Chapter 4.05 – Appeals	74

ARTICLE 1

GENERAL PROVISIONS

CHAPTER 1.01: TITLE AND APPLICATION

CHAPTER 1.02: ORDINANCE PROVISIONS

CHAPTER 1.03: OFFICIAL ZONING MAP

Chapter 1.01 TITLE AND APPLICATION

1.01.01 Title. This document shall be known and referred to as "The Zoning Regulations of the City of Parker, South Dakota." This ordinance shall include any and all provisions of the document titled Zoning Regulations, which is adopted by reference as a part of this ordinance.

1.01.02 Jurisdiction. The provisions of these regulations shall apply to all territory within the boundaries of the City of Parker, South Dakota, as established on the *Official Zoning Map of the City of Parker*.

1.01.03 Intent. These regulations have been prepared in accordance with a Comprehensive Plan for the City and is designed to coordinate physical development of the community with needs for public services and facilities, and to conserve the value of real estate by encouraging the most appropriate use of land.

The following specific purposes for this ordinance are hereby identified:

- * to lessen congestion in the streets;
- * to secure safety from fire, panic and other dangers;
- * to promote public morals, health and the general welfare;
- * to provide adequate light and air;
- * to avoid undue concentration of population;
- * to prevent the overcrowding of land;
- * to conserve the value of property;
- * to encourage the most appropriate uses of land; and
- * to facilitate the adequate provision of transportation, utilities, schools, parks and other public facilities.

Chapter 1.02 ORDINANCE PROVISIONS

1.02.01 Provisions Declared to be Minimum Requirements. In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

1.02.02 Penalties for Violation. Violation of the provisions of these regulations or failure to comply with any of its requirements, including violations of conditions established in the granting of Variances or Conditional Uses, shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction be subject to the penalties established by South Dakota Law. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure or premises, any architect, builder, contractor, agent or other person who commits, maintains, assists in or participates in such violation may be found guilty of a separate offense and suffer the penalties provided.

1.02.03 Separability Clause. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

1.02.04 Repeal of Conflicting Regulations. All prior regulations or parts of prior regulations in conflict with these regulations are hereby declared repealed.

1.02.05 Effective Date. These regulations shall be in full force and effect from and after their passage, approval, publication and effective date of the Zoning Regulations of the City of Parker, as provided for by South Dakota law.

Chapter 1.03 OFFICIAL ZONING MAP

1.03.01 Adoption of Official Zoning Map. The Official Zoning Map for the City of Parker, on record with the Zoning Administrator and the Finance Officer, is hereby adopted by reference and declared to be a part of these regulations.

1.03.02 Changes to Official Zoning Map. Changes to or replacement of the Official Zoning Map shall require amendment of these regulations by ordinance, as provided for in 4.04.04 of these regulations.

1.03.03 Classification of Annexed Territory. In all territories which may hereafter be annexed to the City, the zoning districts as they exist in Turner County shall be continued until otherwise changed by ordinance, as provided for in 4.04.04 of these regulations.

ARTICLE 2

DEFINITIONS

CHAPTER 2.01: GENERAL TERMS

CHAPTER 2.02: WORDS AND PHRASES

Chapter 2.01 GENERAL TERMS

For the purpose of these regulations, certain terms and words are defined.

The present tense includes the future tense;

The singular number includes the plural;

The plural number includes the singular;

Lot includes the words "plot" or "parcel";

May is permissive;

Shall is mandatory, and;

Person, in addition to an individual, includes the following terms: "firm", "association", "organization", "partnership", "trust", "company" or "corporation".

Chapter 2.02 WORDS AND PHRASES

Abutting. Adjacent or contiguous, including property separated by an alley. The term “abutting” implies a closer proximity than the term “adjacent”.

Accessory building or use. An accessory building or use is one which:

- (1) Is customary and clearly incidental to the principal building or principal use;
- (2) Serves exclusively the principal building or use;
- (3) Is subordinate in area, extent or purpose to the principal building or principal use served;
- (4) Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
- (5) Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

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

Adult Bookstore or Video Store. A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

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

Adult Cabaret. Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:

- (1) Persons who appear in a state of nudity or seminudity.
- (2) Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
- (3) Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

Adult Motion Picture Theater. A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.

Adult Oriented Business. Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.

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

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

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

Amusement Areas and Facilities. Any buildings, areas, plots or parcels of land which are set aside for the purpose of amusement of paying clients. Such areas and facilities include those located indoors and outdoors. Examples of amusement areas and facilities include: Miniature golf courses, amusement parks, arcades and theaters.

Antenna Support Structures. Any existing structure that supports wireless communication facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

Assisted Living Center and Congregate Care Facility. A facility to provide apartment living for persons over the age of fifty-five (55) or persons subject to chronic illnesses or infirmities but who do not need a level of nursing care provided in a licensed nursing home. Assisted-living centers need not be licensed by the State of South Dakota, but must provide at least one common hot meal per day for residents in the facility.

Boarding House. A building other than a motel, hotel or restaurant, where lodging and meals are provided for three or more persons, but not exceeding ten persons, and not open to the public or transients.

Board of Adjustment. Public and quasi judicial agency charged with the duty to: hear and determine zoning appeals, approve variances and approve conditional uses.

Building. Any structure, including a roof supported by posts or columns, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind. The word "building" shall include the word "structure".

Building Height. The vertical distance from the established average finished grade at the building line to the highest point of the building.

Buildable Area. The portion of a lot remaining after all required yards have been provided.

Comprehensive Plan. The adopted long-range plan intended to guide the growth and development of the

community and region, including analysis, recommendations and proposals of the community's population, economy, housing, transportation, community facilities and land use.

Conditional Use. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in the zoning district regulations.

Day Care Center. Any operation which provides child care services. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

District. A section of the City for which regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.

Dwelling, Farm. Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

Dwelling, Manufactured Home. A manufactured home is a structure that meets the following requirements:

- (1) It is transportable in one or more sections; and
- (2) Its body is 8 or more feet wide or 40 or more feet long in the traveling mode, or it occupies 320 or more square feet when erected on a site; and
- (3) It is built on a permanent chassis; and
- (4) It is designed to be used as a dwelling with or without a permanent foundation when it is connected to the required utilities; and
- (5) Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. (For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required)

Dwelling, Modular Home. A modular home is a structure that meets the following requirements:

- (1) It is transported to a site on a trailer, in one or more sections; and
- (2) It is designed for assembly on site and attachment to a permanent foundation; and
- (3) It does not have an axle, hitch or other equipment designed to make it transportable without the use of a trailer.

(4) It is built to International Building Code (IBC) Standards.

Dwelling, Multiple-Family. A residential building containing three or more household units including apartments, condominiums, and town houses.

Dwelling, Single-Family. A detached residential building, other than a manufactured home but including modular homes, containing one household unit and built to IBC standards.

Dwelling, Two-Family. A detached residential building containing two household units.

Dwelling Unit. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, containing independent cooking and sleeping facilities, and physically separated from any other rooms or dwelling units which may be in the same structure.

Family. One or more persons occupying a single dwelling unit, provided that no such group of persons includes more than 5 persons who are not related by blood or marriage. Domestic servants employed on the premises shall not be counted as a separate family or families.

Farm. A bonafide business for the production of agricultural products, but specifically excluding greenhouses, livestock, horticultural nurseries, kennels, and the incidental use of horses, dogs or other animals, and similar operations.

Fence. A railing, wall or other means of enclosing a yard, garden, field, farm or like area, to show where it ends or to keep people or animals in or out. This definition is not intended to include dog kennels.

Filling Station. Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjustment of automotive parts. Motor vehicle repair work may be done at a filling station provided that no rebuilding of engines, storage of automobiles not in operating condition, spray paint operations, body or fender repair or any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normally found at places which sell gasoline at retail is conducted. Gasoline pumps and gasoline pump islands shall be located at least twelve (12) feet from the nearest property line.

Floodplain. Land that may be submerged by flood waters.

Height of Structures. The vertical distance from the base of a structure to the highest point of a structure.

Home Occupation. Any occupation carried on by a member of the immediate family residing on the premises, in accordance with 3.01.10 of these regulations.

Hotel or Motel. 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 four (4) or more guest rooms, and which is open to the public and transients.

Household Unit. One room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure.

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

Lagoon. A shallow, man-made pond for the holding or processing of human or livestock sewage.

Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space shall not be included as a part of off-street parking space in the computation of required off-street parking space.

Lot. A tract, plot, outlot, or portion of a subdivision or other parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required. See FIGURE 1 (next page):

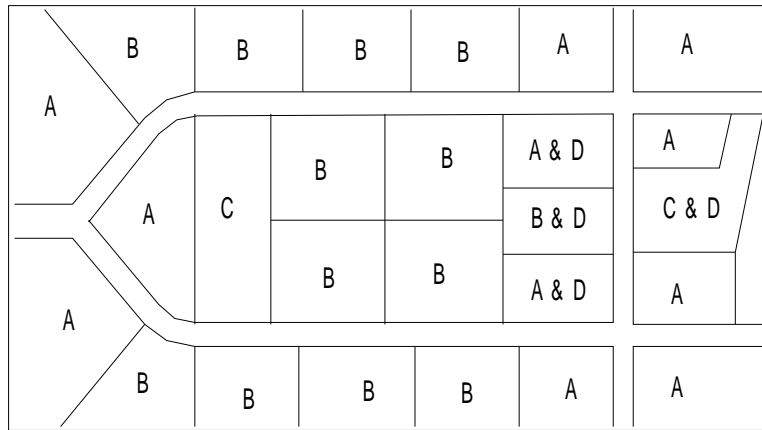


FIGURE 1
 A=Corner Lot: a butting two or more streets at their intersection.
 B =Interior Lot: frontage on only one street.
 C=Through Lot: frontage on two non intersecting streets, as distinguished from a corner lot.
 D=Reverse Frontage Lot: frontage is at approximate right angles to the general pattern of the area.

Lot Depth. The horizontal distance between the midpoint of the front and rear lot lines.

Lot Frontage. The portion of a lot nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

Lot Line. The boundary of a parcel of land, as legally recorded.

Lot of Record. A lot or parcel of land, the deed of which has been recorded in the office of the Turner County Register of Deeds prior to the adoption of these regulations.

Lot Width. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

Manufactured Home Park, Licensed. A contiguous parcel of land operated as a unit, under the same ownership where six or more lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the City of Parker.

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

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

Monopole. A tower design consisting of a single pole, constructed without any guy wires and ground anchors.

Nonconforming Use. Any building or land lawfully occupied by a use at the time of passage of this ordinance or amendment which does not conform after the passage of these regulations or amendment with the use regulation of the district in which it is situated.

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

- (1) A sign is not visible from the exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.
- (2) A student must enroll at least three days in advance of a class in order to participate.

- (3) No more than one nude or seminude model is on the premises at any time.

Nude, Nudity or State of Nudity. Any of the following:

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

Off-Sale Alcoholic Beverage Establishment. Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

On-Sale Alcoholic Beverage Establishment. Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

Outdoor Advertising Business. Provision of outdoor displays or display space on a lease or rental basis only.

Parking Space, Off-Street. An area, enclosed or unenclosed, sufficient in size to store 1 automobile, not less than 10 feet wide and 20 feet long, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Parks and Recreation Areas. Any buildings, areas, plots or parcels of land which are set aside for the purpose of providing for the enjoyment and preservation of the outdoors and/or historic sites. Parks and Recreation Areas include, but are not limited to, swimming pools, hiking and horseback trails, wilderness areas, boat landings, playing fields, primitive campgrounds, campgrounds with modern facilities, and fairgrounds.

Permanent Foundation. A continuous foundation around the perimeter of a structure, which, at bottom, extends no less than 48 inches below the surface of the ground.

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

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

Planning Commission. The duly designated planning commission of the City of Parker, South Dakota, responsible for reviewing applications for development and preparation of the comprehensive plan.

Pole or Steel Building. Any building or structure which is of a type typically constructed for storage, commonly used for farm storage or commercial or business purposes, which is primarily constructed with steel or plastic materials and siding, or which has side walls of greater than ten feet or that are greater than forty feet in dimension, including, but not limited to, buildings that utilize poles or beams as a means of support of the structure. This definition shall not be deemed to apply to steel, aluminum, or similar siding of a type which is commonly utilized for residential siding.

Private Garage. A building used for the storage of vehicles owned and used by the owner or legal tenant of the lot on which it is erected.

Repair Garage. Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

Residence. A permanent dwelling place.

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

Set Back. The minimum distance from a building or any projection thereof to the adjacent lot line.

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

Sign, Freestanding. A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.

Sign, Off-site. A sign other than an on-site sign and including an outdoor advertising sign, or device and billboard not relating in subject matter to the use or activity of the premises on which such sign is located.

Sign, On-site. A sign relating in subject matter to the premises on which such sign is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by outdoor advertising businesses in the conduct of advertising business.

Sign, Projecting. A sign other than a wall sign which is attached to and projects from a structure or building face.

Sign, Roof. Any sign erected upon, against, or directly above a roof or on top of the parapet of a building.

Sign, Wall. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than twelve (12) inches from such building or structure.

Signs, Method of Determining Number. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit.

Where matter is displayed in a random manner without an organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Signs, Method of Determining Surface Area. For the purposes of determining the surface area of a sign, the entire area within a regular geometric form or combination of regular geometric forms comprising all elements of the matter displayed, but not including frames or structural members not bearing advertising, shall be considered the surface area of a sign.

Solid Waste Disposal Facility. Any facility which accepts, for final disposal, any type of garbage, refuse or solid waste.

Solid Waste Transfer, Processing or Recycling Facility. Any facility which accepts, for processing, re-use, resource recovery or transfer to a Solid Waste Disposal Facility, any type of garbage, refuse or solid waste.

Specified Anatomical Areas. Any of the following:

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

Specific Sexual Activities. Any of the following:

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

Storage Facility. A facility or area which enclosed storage space is provided for use by individuals to store personal items or by businesses to store materials for operation of a business establishment at another location. Activities other than rental of storage of units and pickup and deposit of dead storage (inanimate stable materials which are neither volatile, combustible, noxious, explosive nor dangerous) shall not be permitted. For purposes of these zoning regulations, all doors into storage facilities shall be screened from view of public streets and adjacent properties, unless those properties are zoned I-1 or I-2.

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

Street, Collector. A street which a) carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development and b) is designated as a collector street on the Major Street Plan.

Street Line. The line delineating the edge of the right-of-way of a street, road or highway.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Examples of structures include antennas, buildings, dugouts, fences, lagoons, manufactured homes, signs, swimming pools and walls.

Subdivision. Any land, vacant or improved, which has been divided or is proposed for division into two or more lots, tracts or parcels for the purpose of sale or development, whether immediate or future.

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

Variance. A variance is a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result or the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Warehouse. A building less than 50,000 square feet in size in which space is provided for the storage of goods and materials for distribution or transfer to another location.

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

Yard. An open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided in this ordinance.

- (a) Yard, Front. A yard along the front of any building and along a street right-of-way.
- (b) Yard, Side. A yard along the side of any building.

- (c) Yard, Rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there shall be no rear yards, but only front and side yards.

ARTICLE 3 REGULATIONS

CHAPTER 3.01: CITY-WIDE REGULATIONS

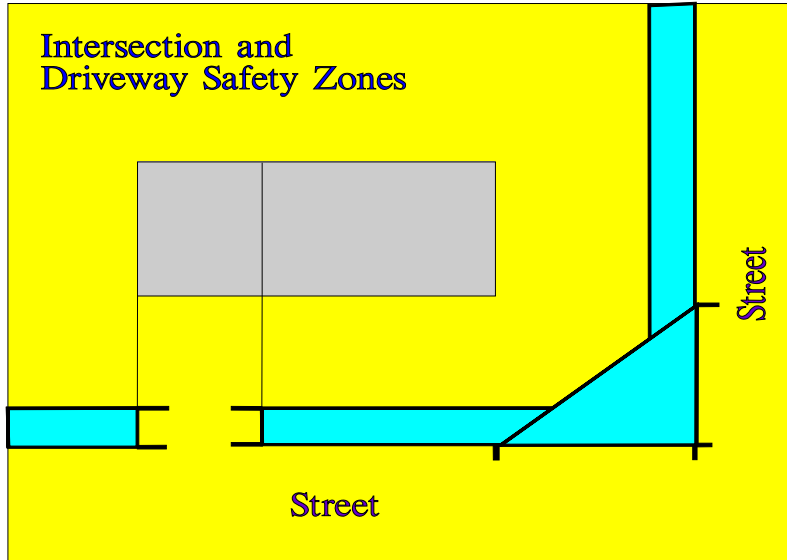
CHAPTER 3.02: NON-CONFORMING USES

CHAPTER 3.03: ADJUSTMENTS TO YARD REGULATIONS

CHAPTER 3.04: DISTRICT REGULATIONS

Chapter 3.01 CITY-WIDE REGULATIONS

3.01.01 Visibility at Intersections. On a corner lot in any district except Commercial, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2.5 feet and 10 feet above the center line grades of the intersecting streets in the area within 50 feet of the intersection of the center lines of the streets.



3.01.02 Accessory Buildings. An accessory building is a structure which may be considered customarily incident and similar to the character of uses in residential districts, and which in no way is objectionable or detrimental to the character, intent and purpose of the district in which it is located. Special requirements for accessory buildings are as follows:

- A. Any accessory building which covers more than 144 square feet shall be secured to the ground to prevent the structure from being moved or damaged by high winds. Accessory buildings must be anchored to a concrete slab, or other appropriate method as approved by the Authorized Official.
- B. A private residential detached garage used only for the housing of noncommercial passenger automobiles. The use of corrugated sheet metal for exterior residential garage walls is prohibited. The height shall not exceed a one-story dwelling. No detached garage shall exceed 1,500 square feet in floor area. A garage which is entered directly from an alley shall not be closer than twenty (20) feet to the rear property line.

- C. Accessory buildings may not be used for dwelling purposes.
- D. Yard setbacks may be adjusted as according to 3.03.01 and 3.03.02.
- E. Accessory buildings must be at least five (5) feet from all property lines. Accessory buildings must not be located within utility and drainage easements. It is the owner's responsibility to verify the location of the property lines. Accessory buildings shall be located at least ten (10) feet from the primary dwelling unit.
- F. Accessory buildings shall not be located in front of the principal building, nor shall they be located in any side yard. However, one (1) detached garage, in conformance with the provisions of these regulations, may be permitted in a side yard so long as all requirements of the regulations are adhered to.
- G. A maximum of two (2) accessory buildings may be constructed on any one lot of record.
- H. No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.
- I. Maximum floor area for a storage shed shall be one hundred and forty-four (144) square feet.
- J. Accessory building material shall be the same as or of similar quality as that of the principal building. Accessory buildings shall be compatible with the principal buildings with respect to building materials, design and character.

3.01.03 Structures to Have Access. Every building constructed or moved shall be on a lot adjacent to a public street, or with access to an approved private drive, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

3.01.04 Manufactured Home Dwelling (outside of an approved Manufactured Home Park).

- (A) No building permit for the location of a manufactured home outside of an approved Manufactured Home Park shall be issued until a Conditional Use Permit has been approved by the Board of Adjustment (BOA).

The BOA shall not approve a Conditional Use Permit unless the following performance

standards are met:

- (1) The manufactured home shall meet or exceed the current federal Manufactured Home Construction and Safety Standards.
- (2) No more than one (1) manufactured home shall be located on a lot of record. No manufactured home shall be placed on any lot that has an existing residence.
- (3) Each manufactured home shall be properly secured to the ground with a permanent foundation extending no less than four (4) feet below grade.
- (4) The manufactured home shall comply with all lot and yard requirements established for the zoning district in which it is to be located.
- (5) Each manufactured home shall be skirted with material approved by the Zoning Administrator. Skirting shall be installed as recommended by the manufacturer. Skirting shall be of a material which is compatible with the appearance and condition of neighboring dwelling units. Appropriate materials shall include commercially manufactured colored steel, fiberglass, plastic or masonry materials. Tie downs and skirting shall be installed prior to occupancy.
- (6) Each manufactured home shall be connected to the municipal wastewater collection system and municipal water supply system.
- (7) The manufactured home shall be aesthetically compatible with neighboring dwelling units, including but not limited to the following factors: width, length, area, number of stories, siding and roofing materials, roof style and pitch, and condition.
- (8) Notwithstanding the above rules listed in (1) through (8), a permit may be issued for parking and occupying a manufactured home on land owned by the occupant or occupants, during the construction of a house thereon, for a period not to exceed 180 days. The Board of Adjustment may grant an extension to this time limit if there is evidence of substantial progress on the house.

3.01.05 Manufactured Home Parks, Licensed. A manufactured home park may be developed within certain areas of the City, as specified in Chapter 3.04 - District Regulations (R-2 District: Manufactured

Housing). To be granted an R-2: Manufactured Housing District designation, a manufactured home park shall, at minimum, meet all of the following requirements:

- (A) The applicant shall present plans and specifications for the proposed park in a form suitable for making the determinations required herein; these shall include the legal and locational description of the property and maps showing the layout, dimensions, streets, utility lines, lots, locations of manufactured homes and other buildings, and any other information which the Zoning Administrator deems necessary for the City Council to approve an R-2 zoning designation. Further regulations governing this type of development as well as other types of development can be found in the City of Parker Subdivision Regulations.
- (B) The site for a manufactured home park shall be at least 2 acres, and shall not exceed 7 lots per gross acre.
- (C) Each manufactured home unit shall be located on a lot having an area of not less than 6,000 square feet.
- (D) Each manufactured home lot shall have a minimum lot width of 50 feet.
- (E) Each manufactured home installed on site shall meet or exceed the current federal Manufactured Home Construction and Safety Standards.
- (F) Each manufactured home shall have a minimum front yard of 25 feet, minimum side yards of 7 feet, and a minimum rear yard of 10 feet. In no instance shall any addition or appurtenance to a manufactured home, nor any accessory building, be located in a required yard. In determining minimum yard requirements, distances shall be measured from the lot lines in the same manner as lots which abut on a public right-of-way.
- (G) The manufactured home lot shall be located on a well-drained area, and the premises shall be properly graded to prevent the accumulation of storm or other waters.
- (H) The manufactured home park shall be connected to a central water distribution system and a central wastewater collection and treatment system.
- (I) Each manufactured home lot shall abut or face a clear unoccupied roadway or street. Such roadway or street shall have an all weather surface of at least 28 feet in width where

- parking is permitted on both sides, and 24 feet in width where parking is restricted to one side only.
- (J) The manufactured home park shall be surrounded by a landscaped strip of open space 25 feet wide along all boundaries of the manufactured home park except where walks and drives penetrate the buffer. Such landscaped strip may include property required by the yard requirements in this section.
 - (K) If an individual manufactured home, which does not meet the standards of this section, but has been allowed to continue as a non-conforming use, is moved out of a manufactured home park, then any manufactured home installed in its place shall comply with all of the requirements of this section.
 - (L) Each manufactured home shall be properly secured to the ground with tie downs installed as recommended by the manufacturer, but in no event more than 12 feet apart along the perimeter of the structure. Such tie downs shall extend down no less than 4 feet below grade.
 - (M) Each manufactured home shall be skirted with material approved by the Zoning Administrator. Skirting shall be installed as recommended by the manufacturer. Skirting shall be of a material which is compatible with the appearance and condition of neighboring dwelling units. Appropriate materials shall include commercially manufactured colored steel, fiberglass, plastic or masonry materials. Tie downs and skirting shall be installed prior to occupancy.
 - (N) A building permit shall be required for the moving in of a manufactured home into a licensed manufactured home park (R-2 zoning designation). For purposes of these zoning regulations, a building permit will also be required for the moving in of modular homes into the R-1 District as well as for manufactured homes outside of an approved manufactured home park (moved into an R-1 District).
 - (O) Each licensed manufactured home park in the City of Parker shall be allowed one (1) identification sign, not exceeding twelve (12) feet in area, for each principal entrance. For the purpose of these regulations, a principal entrance is defined as that place of ingress and egress used most frequently by the public.

3.01.06 Off-Street Parking Spaces. In computing the number of required off-street parking spaces the

floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. For the purpose of these regulations, gross floor area shall mean the square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses. Where fractional spaces result, the parking spaces required shall be the nearest whole number. The parking requirements in this section shall not be applicable to property in the B-1 Central Business District. For the number of off-street parking and loading spaces required in all other districts, see TABLE 1 below:

TABLE 1: Minimum Off-Street Parking & Loading Requirements

USES & STRUCTURES	MIN. PARKING REQUIREMENTS	MIN. LOADING REQUIREMENTS
Boarding Houses	1 space per 2 rental units	None required
Bowling Alleys	4 spaces per bowling lane	1 space per establishment
Filling Stations	4 spaces per establishment	None required
Funeral Homes & Chapels	8 spaces per reposeing room	2 spaces per establishment
Hospitals	1 space per 2 beds	3 spaces per establishment
Hotels and Motels	1 space per 2 rental units	1 space per establishment
Houses of Worship	1 space per 4 seats in main worship room	None required
Industrial Uses	1 space per 2 employees on largest shift	2 spaces per establishment
Libraries	1 space per 500 sq. ft. of gross floor area	1 space per establishment
Manufactured Home Parks	2 spaces per dwelling unit	None required
Medical Clinics	5 spaces per staff doctor or dentist	None required
Offices/service businesses	1 space per 200 sq. ft. of gross floor area	1 space per establishment
Private Clubs and Lodges	1 space per 500 sq. ft. of gross floor area	1 space per establishment
Residential Structures	2 spaces per dwelling unit	None required
Rest, Convalescent or Nursing Homes	1 space/per 3 beds + 1 space/ employee	1 space per establishment
Restaurants and Bars	0.3 spaces per person capacity	2 spaces per establishment
Retail Businesses	1 space per 200 sq. ft. of gross floor area	1 space per establishment
Schools, Primary (elementary)	0.2 spaces per student	2 spaces per establishment
Schools, all other	0.4 spaces per student	2 spaces per establishment
Storage Facility	1 space per 20 rental units	2 spaces per establishment
Theaters and Auditoriums	1 space per 5 people in design capacity	1 space per establishment
Veterinary Businesses	3 spaces per staff doctor	None required
Warehouse	.75 spaces per employee on largest shift	2 spaces per establishment
Wholesale & Distribution Businesses	1 space per 2 employees on largest shift	2 spaces per establishment

3.01.07 On-Premise Signs.

Districts	Permitted Signs	Sign Area	Sign Height
A & F	Freestanding	50 square feet (maximum)	No more than 6 feet above grade
R-1 & R-2	Wall	4 square feet (maximum)	On wall only

B-1 & B-2	Wall, roof, and projecting	2 square feet per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	Wall = on wall only Roof and projecting = no more than 5 feet above roof line
B-1 & B-2	Freestanding	1 square foot per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	B-2 = no more than 30 feet above grade B-1 = no more than 18 feet above grade
I-1 & I-2	Freestanding	1 square foot per 3 lineal feet of street frontage with a maximum of 100 sq. ft.	No more than 20 feet above grade
I-1 & I-2	Wall, roof, and projecting	1 square foot per 3 lineal feet of street frontage with a maximum of 100 sq. ft.	Wall = on wall only Roof and projecting = no more than 5 feet above roof line

3.01.08 Off-Premise Signs. Off-premise signs are allowed in the B-2, I-1 and I-2 Districts as conditional uses, subject to the following additional regulations:

- (A) Off-premise signs will be allowed a maximum size of 288 square feet.
- (B) Signs will be allowed a maximum height of 40 feet; and a minimum of 12 feet.
- (C) There will be a minimum setback for the sign face of 10 feet and a minimum setback for the sign structure of 22 feet. No part of the off-premise sign face or structure will be allowed to exist in or overlap into the required side or rear yard setbacks.
- (D) Blinking, flashing, or fluttering lights, as well as intermittent sequential lighting, cinematic projection, or electronic and electrical processes using illumination to depict something with motion, movement, changing scenes, or messages are prohibited.

3.01.09 Permitted Signs. The following types of signs shall be permitted in all zoning districts:

- (A) Temporary signs not exceeding 12 square feet in area advertising the sale or lease of real estate when located on property to which the sign refers and when not located closer than 10 feet to any lot line. Such sign shall be removed after sale or lease of the property.
- (B) Temporary signs advertising future use or development of property on which such signs are located, provided such signs do not exceed 12 square feet in area or remain longer

than 6 months after completion of the development.

- (C) Public building bulletin boards not exceeding 12 square feet in area, traffic and public signs, and no trespassing or similar signs, and legal notices.
- (D) Political campaign signs, provided such signs do not exceed nine (9) square feet in any residential district and twenty-four (24) square feet in any of the B or I districts. Such signs may be displayed sixty (60) days prior to, and seven (7) days after the election for which they are intended.

3.01.10 Home Occupations. Home occupations are those secondary uses allowed on a premises in conjunction with the following:

- (A) The occupation must be conducted within a dwelling unit.
- (B) The occupation must be clearly incidental and secondary to the principal use of the dwelling for dwelling purposes.
- (C) Only members of the immediate family residing on the premises may be employed by or participate in the home occupation.
- (D) The entrance to the space devoted to such occupation must be from within the building.
- (E) There can be no evidence other than the nameplate referred to in 3.01.10 (F) that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.
- (F) There is used no sign which is attached to the building other than a nameplate. The sign shall not be illuminated and shall not be more than four (4) square feet in area. If the home occupation is located in the Agricultural District, the sign shall not be illuminated and shall not be more than thirty-two (32) square feet in area.
- (G) Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling.
- (H) No merchandise, including samples, can be sold on the premises.

- (I) The business will generate no more than four (4) visits per day from clients or customers.
- (J) Any process which will cause odor, dust, glare, noise, heat or vibration which would have a negative effect on adjacent properties shall not be allowed.
- (K) A building permit shall be secured for all home occupations in conformance with the procedure outlined in 4.04.01 of these regulations.

3.01.11 Private Wastewater Treatment Systems (Septic Tanks). All existing septic tanks shall be considered Non-Conforming Uses. Any new construction or substantial improvement must be connected to the City's sewer system, unless it is located in the A district, in which case any septic tank must be constructed in accordance with section 8.03.03 of the City's Municipal Ordinances. All septic tanks shall be installed by a Certified Installer, as required by the Administrative Rules of South Dakota. A copy of the checklist from the South Dakota Department of Environment and Natural Resources (SD DENR) must be placed on file with the City Finance Officer.

3.01.12 Permanent Foundations Required for Dwellings. No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes in an approved manufactured home park, provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather related events.

3.01.13 Fences. Regulations regarding fences shall be as follows:

- (A) Purpose: The regulation of fences is intended to protect the public safety and welfare while maintaining the integrity of the community; providing privacy; buffering noise; and allowing adequate air, light and vision.
- (B) Permit Required: Building Permits shall be required to construct fences.
- (C) The standard maximum fence height is 6 feet. However, the City may set a different maximum height to preserve adjoining property owners' views or access to light or air, or to protect public health and safety.
- (D) No barbed wire fence shall be erected or maintained in the R-1 or R-2 districts.

- (E) No fence shall be erected which violates *3.01.01 – Visibility at Intersections*. On a corner lot in any district except Commercial, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2.5 feet and 10 feet above the center line grades of the intersecting streets in the area within fifty (50) feet of the intersection of the center lines of the streets.
- (F) To preserve the neighborhood character of the Residential districts, fences along the perimeter of a front yard shall be of a decorative type only, such as split rail or picket.
- (G) A property owner may construct a fence along the immediate inside of a boundary with an adjoining parcel. Any fence that is allowed pursuant to a zoning ordinance must be maintained properly.
- (H) No fence shall be constructed within one (1) foot of a property boundary along a public right-of-way.

EXCEPTIONS:

- (1) On double frontage and corner lots used residentially, fences not more than six feet in height may be placed in a required front yard abutting an arterial or collector street where:
 - (a) The required front yard abutting an arterial or collector street is not used as the front yard.
 - (b) The fence is set back a minimum of ten feet from the property line abutting the arterial or collector street.
 - (c) Intersection safety zones are maintained.
- (2) The maximum fence height for golf courses, public swimming pools, school track and field areas, parks and ball parks shall be eight (8) feet on any portion of the lot. Fences associated with these uses shall not be more than thirty (30) percent solid.
- (3) The maximum fence height for public tennis courts shall be twelve (12) feet and shall not be more than thirty (30) percent solid on any portion of the lot.

3.01.14 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities.

- (A) Intent: Regulations regarding development of telecommunications towers, antenna support structures and wireless communications facilities are intended to encourage the development of a competitive wireless communications marketplace while protecting the health, safety and welfare of the public and maintaining the aesthetic integrity of the community.

The regulations cover the placement, construction and modification of telecommunications towers, antenna support structures and wireless communications facilities. The specific intent of this section is:

- (1) To regulate the location of telecommunications towers, antenna support structures and wireless communications facilities in the city;
- (2) To protect residential areas and land uses from potential adverse impacts of telecommunications towers, antenna support structures and wireless communications facilities;
- (3) To minimize adverse visual impact of telecommunications towers, antenna support structures and wireless communications facilities through careful design, siting, landscaping and innovative camouflaging techniques;
- (4) To promote and encourage shared use/co-location of telecommunications towers, antenna support structures and wireless communications facilities;
- (5) To avoid potential damage to property caused by telecommunications towers, antenna support structures and wireless communications facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or when determined to be structurally unsound;
- (6) To insure that telecommunications towers, antenna support structures and wireless communications facilities are compatible with surrounding land uses;
- (7) To facilitate the provision of wireless communications services to the residents

and the businesses of the city in an orderly fashion;

(8) To promote the location of telecommunications towers in non-residential areas.

(B) Application required: The following items must be satisfactorily addressed in a formal application to obtain a building permit at any given location in those zoning districts allowing telecommunications towers, wireless communication facilities and antenna support structures.

(1) Proof of compliance with all applicable building codes and Federal Aviation Administration Regulations and an approved conditional use permit from the Parker Board of Adjustment.

Exemptions:

(1) Additions to existing towers which meet the standards of this section and do not increase the tower height.

(2) Normal maintenance to existing tower facilities.

(C) Location/Setbacks:

(1) Where a telecommunications tower is located within 300 feet of a residential zoning district or use, or a future residential land use designated by the City's adopted Comprehensive Plan, the minimum distance from the telecommunications tower base to the nearest existing residential/institutional structure or building setback line is not less than the proposed height of the tower.

(2) Where a telecommunications tower is required to meet Federal Aviation Administration paint and/or lighting regulations, the distance between the telecommunications tower and any residential zoning district or use shall not be less than one-half mile.

(D) Design Character:

(1) Telecommunications towers and antenna support structure design shall use materials, colors, textures, screening and landscaping that create compatibility with the natural setting and surrounding structures.

- (2) Telecommunications towers shall be protected from corrosion or rusting, and if painted, be a neutral color, unless otherwise required by the Federal Aviation Administration.

- (E) Stealth: Telecommunications towers in any non-residential district where located within 300 feet of a residential zoning district or use, shall be monopole design.

- (F) Illumination: Telecommunications towers shall not be artificially lighted except as required by the Federal Aviation Administration.

- (G) Maintenance:
 - (1) All telecommunications towers, antenna support structures and wireless communications facilities shall be maintained in good condition, order and repair so that they shall not endanger the life or property of any person.

 - (2) Telecommunications towers, antenna support structures and wireless communications facilities shall be maintained in compliance with Electronic Industries Association/Telecommunications Industries Association Standard EIA/TIA 222 (latest revision), all applicable laws, and so as not to interfere with the use of other property. Upon the City's determination that a tower structure may be a hazard to public safety, the City may require the owner to perform an inspection by a professional engineer registered in the state of South Dakota and make all recommended corrections at his or her own expense.

 - (3) All maintenance or construction on telecommunications towers, antenna support structures and wireless communications facilities shall be performed by persons employed by, or under contract to the owner.

 - (4) If an owner discontinues use of a telecommunications tower, or if an owner files notice with the Federal Communications Commission of its intent to cease operating the tower, the owner shall give written notice to the Zoning Administrator of the date of such discontinuance.

- (H) Abandonment:
 - (1) If the City receives notice of discontinuance of use, or if any telecommunications

tower is not used for 365 consecutive days, the City may notify the owner that the city intends to determine that the site has been abandoned.

If, within 30 days of receipt of notice, the owner fails to show that the tower has been in use or under repair during the period, the City may determine that the site has been abandoned.

- (2) Within 75 days of notice of such determination of abandonment, the owner shall remove the tower from the site. If an owner fails to do so, the City may remove the tower and recover the cost from the owner.

3.01.15 Construction of More Than One Principal Structure on a Lot. In any zoning district, no more than one principal structure containing a permitted use may be constructed on a single lot.

3.01.16 Additional Height Regulations. The height regulations established in these Zoning Regulations shall not be applied to flag poles, domestic television antennas, church spires, chimneys or water towers, except when such structures are located in an airport approach zone.

The maximum height for telecommunications towers and wireless communications facilities shall not exceed 100 feet for single users or 200 feet for two or more users. When such structure is located in an airport approach zone, Federal Aviation Administration approval will be required prior to permit issuance.

Chapter 3.02 NON-CONFORMING USES

3.02.01 Uses and Structures. A lawful use or structure existing at the time these regulations are adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

- (A) Whenever a nonconforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.
- (B) Should any nonconforming use or structure be destroyed by any means to the extent of more than 50% of its replacement cost, such nonconforming use shall not continue.
- (C) When a nonconforming use or structure is discontinued for a period of one (1) year, it

shall not be continued unless in conformance with the requirements of this ordinance (SDCL 11-6-39).

- (D) Any nonconforming use may be extended throughout any part of a structure which was arranged or designed for such use previous to the adoption of these regulations, but shall not be extended outside such structure.
- (E) No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance which do not enlarge, move or structurally alter a nonconforming use.

3.02.02 Lots of Record. In any district in which single-family dwellings are permitted, such uses may be constructed on any single lot of record at the time these regulations are adopted or amended. This provision shall apply even though such lot does not meet requirements for area or width, or both, provided that yard dimensions and requirements shall conform to the district requirements. Variance of yard requirements shall be approved only by the Board of Adjustment.

Chapter 3.03 ADJUSTMENTS TO YARD REGULATIONS

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

3.03.02 Adjustment to Side Yard Requirements. Buildings constructed prior to the effective date of these Zoning Regulations with side yard setbacks of less than required by these Zoning Regulations, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

3.03.03 Projection From Buildings. Every part of any required yard shall be open to the sky and unobstructed except:

- (A) Eaves may project into a front, side, or rear yard;
- (B) Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features which may project twelve (12) inches;
- (C) Air conditioners may project into a required side or rear setback;

- (D) An open, unenclosed porch may project into a required front yard for a distance not exceeding ten (10) feet. Balconies and paved terraces may project into a required front yard for a distance not exceeding six (6) feet. An enclosed vestibule containing not more than forty (40) square feet may project into a required front yard for a distance not to exceed four (4) feet; and
- (E) Terraces, uncovered porches, platforms, decks, and ornamental features which do not extend above the level of ground (first) floor may project into a required yard, provided these projections be distanced at least five feet from the adjacent side or rear lot line.

Chapter 3.04 DISTRICT REGULATIONS

3.04.01 Generally. The district regulations included in this Chapter may be qualified or supplemented by additional regulations appearing elsewhere in this ordinance.

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as nonconforming uses, or unless a Conditional Use Permit is granted as provided for in 4.04.02 of these regulations.

Deviation from zoning district lot, yard and related requirements, and deviation from City-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in 4.04.03 of these regulations.

Additional requirements and standards for uses and structures permitted by a Conditional Use Permit may be established by the Board of Adjustment as conditions to said Conditional Use Permit.

3.04.02 Application of District Regulations. The district regulations set forth in this chapter shall be minimum regulations, and shall apply uniformly to each class or kind of structure or land in a particular district.

No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements established. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

3.04.03 Zoning Districts. The following zone and use districts are hereby established for the purposes of administration and enforcement of this ordinance:

- (A) A Agricultural District. The purpose of this district is to preserve lands best suited for agricultural use from encroachment by incompatible uses, and to preserve in agricultural use land suited for eventual development to other uses, pending proper timing for practical and economical provision of utilities, streets and other municipal facilities.
- (B) B-1 Central Business District. The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to preserving the City's Main Street Commercial Core. The grouping of uses is intended to preserve and improve the character and economic vitality of Main Street.
- (C) B-2 General Business District. The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space. It is not the intent of this district to encourage the extension or enlargement of strip commercial areas.
- (D) F Floodplain District. The purpose of this district is twofold:
- (1) Protect natural drainage courses in their capacities to carry runoff water, by preventing certain types of land use and structures in areas subject to flooding;
 - (2) Prevent the destruction or pollution of valuable and irreplaceable natural resources, and to prevent the encroachment of uses which would reduce the potential of these resources.
- (E) I-1 Light Industrial District. The purpose of this district is to provide space for a wide range of industrial uses and structures, and for certain commercial uses. Regulations are intended to provide guidelines for locating activities which may be injurious or offensive to occupants of adjacent areas, or which emit odors, fumes or gases, dust, smoke, noise, or vibrations which are evident beyond the property of such uses.
- (F) I-2 General Industrial District. The purpose of this district is to provide land for the widest range of industrial operations appropriate for the City, for those industrial uses which are unable to meet the performance standards for uses within the I-1 Light Industrial District.

- (G) R-1 Residential District. The purpose of this district is to provide locations for dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible uses and facilities.
- (H) R-2 Manufactured Housing District. The purpose of this district is to provide for higher density residential areas in the City that may be developed for all types of manufactured housing and support facilities.

3.04.04 Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of district as shown on the Official Zoning Map, the following rules shall apply:

- (A) Boundaries indicated as approximately following platted lot lines or city limits shall be interpreted to follow such platted lot lines or city limits;
- (B) Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;
- (C) Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;
- (D) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment, as established in Article 4, shall interpret the district boundaries;
- (E) Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a Conditional Use Permit the extension of the regulations for either portion of the lot into the remaining portion of the lot.

3.04.05 District Regulations Established. Regulations for each zoning district are hereby established. Such regulations shall be as described on the following pages:

DISTRICT	PAGES
A: Agricultural	40-42
B-1: Central Business	43-45
B-2: General Business	46-48
F: Floodplain	49
I-1: Light Industrial	50-52
I-2: General Industrial	53-55
R-1: Residential	56-57
R-2: Manufactured Housing	58-59

3.04.05 District Regulations Established (continued).

A: AGRICULTURAL DISTRICT

PURPOSE

The purpose of this district is to preserve lands best suited for agricultural use from encroachment by incompatible uses, and to preserve in agricultural use land suited for eventual development to other uses, pending proper timing for practical and economical provision of utilities, streets and other municipal facilities.

PERMITTED USES

Agriculture, horticulture and ranching
Antennas, 35 feet or less in height
Farm dwellings
On-Premise Signs – subject to provisions of 3.01.07
Park and Recreation Areas
Permitted Signs – subject to provisions of 3.01.09
Satellite dishes up to 36” in diameter
Temporary housing for farm laborers
Utility lines and substations

CONDITIONAL USES

Agricultural chemical production facilities
Airports
Amusement areas and facilities
Antennas, over 35 feet in height
Cemeteries
Day care centers
Fairgrounds
Farm service businesses
Filling stations
Grain storage facilities
Home occupations

vacant dwelling is removed. In cases where a new dwelling is constructed to replace the vacant dwelling, the vacant dwelling shall be demolished or removed within 180 days of occupation of the new dwelling.

3.04.05 District Regulations Established (continued).

B-1: CENTRAL BUSINESS DISTRICT

PURPOSE

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

PERMITTED USES

Antennas, 35 feet or less in height
Automobile parking lots
Commercial service businesses
Cultural areas and facilities
Funeral homes and chapels
Governmental service facilities
Offices
On-Premise Signs – subject to provisions of 3.01.07
Parks
Permitted Signs – subject to provisions of 3.01.09
Personal service businesses
Preservation areas and facilities
Professional service businesses
Public or private meeting facilities
Recreation areas and facilities
Retail businesses
Satellite dishes up to 36” in diameter
Schools
Utility lines and substations
Wholesale businesses

CONDITIONAL USES

- Animal clinics, hospitals and kennels
- Antennas, over 35 feet in height
- Assisted living center and congregate care facility
- Car wash – provided that all operative machinery is within an enclosed structure and adequate drainage is provided
- Day care centers – provided they are licensed by the State of South Dakota
- Dry cleaning establishments
- Dwellings – provided they are above the first floor
- Fairgrounds
- Farm service businesses
- Filling Stations
- Food lockers (only if animal prep work is done indoors)
- Grain storage facilities
- Heavy vehicle garaging, maintenance, terminals and transfer facilities
- Hotels and Motels
- Lumber yards
- Metal-working, carpentry, plumbing or printing shops
- Off-Sale Alcoholic Beverage Establishment *(Amended: Ordinance No. 123009, 01/11/10)*
- On-Sale Alcoholic Beverage Establishment *(Amended: Ordinance No. 123009, 01/11/10)*
- Outdoor amusement areas and facilities
- Repair Garage
- Restaurants
- Satellite dishes over 36” in diameter
- Solid waste transfer, processing or recycling facilities
- Adult Oriented Business – subject to provisions of SDCL 11-12-2 and SDCL 11-12-3

MINIMUM LOT REQUIREMENTS

Frontage: 25 feet

Area: 2,400 sq. ft.

MINIMUM YARD REQUIREMENTS*

Front: The average setback existing on that street

Rear: 5 feet, if the rear of the lot abuts an alley

Side: (none)

*Lots adjacent to an R-1 or R-2 District shall, along any lot line which borders said R-1 or R-2 District, provide the same yard as required by the controlling R District

HEIGHT REGULATIONS Maximum of 45 feet

Exceptions: See 3.01.16

ADDITIONAL B-1 DISTRICT REGULATIONS

- (1) To be a permitted use or Conditional Use Permit in the B-1 District, such use shall be conditional upon the property owner meeting the following performance standards:
 - (A) No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, motor fuels, or welding gasses.
 - (B) No operation shall be carried on which involves the discharge into a sewer or water course liquid wastes which are harmful to normal sewage plant operations or corrosive to sewer pipes and installations.
 - (C) Activities shall be prohibited which are injurious or offensive to occupants of adjacent premises or which emit air contaminants, smoke, odors, gasses, noise or vibrations which are evident beyond the property lines of a lot upon which are evident beyond the property lines of a lot upon which such activity is to be located.

3.04.05 District Regulations Established (continued).

B-2: GENERAL BUSINESS DISTRICT

PURPOSE

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

PERMITTED USES

- Antennas, 35 feet or less in height
- Automobile parking lots
- Commercial service businesses
- Cultural areas and facilities
- Funeral homes and chapels
- Governmental service facilities
- Offices
- On-Premise Signs – subject to provisions of 3.01.07
- Parks
- Permitted Signs – subject to provisions of 3.01.09
- Personal service businesses
- Preservation areas and facilities
- Professional service businesses
- Public or private meeting facilities
- Recreation areas and facilities
- Retail businesses
- Satellite dishes up to 36” in diameter
- Schools
- Telecommunications businesses
- Utility lines and substations
- Wholesale businesses

CONDITIONAL USES

- Animal clinics, hospitals and kennels
- Antennas, over 35 feet in height
- Day care centers
- Dry cleaning establishments
- Fairgrounds
- Farm service businesses
- Filling Stations
- Food lockers (only if animal prep work is done indoors)
- Grain storage facilities
- Heavy vehicle garaging, maintenance, terminals and transfer facilities
- Hotels and Motels
- Lumber yards
- Metal-working, carpentry, plumbing or printing shops
- Off-Premise Signs – subject to provisions of 3.01.08
- Off-Sale Alcoholic Beverage Establishment *(Amended: Ordinance No. 123009, 01/11/10)*
- On-Sale Alcoholic Beverage Establishment *(Amended: Ordinance No. 123009, 01/11/10)*
- Outdoor amusement areas and facilities
- Repair Garage – subject to screening of parts stored outdoors
- Restaurants
- Satellite dishes over 36” in diameter
- Telecommunications tower, antenna support structures and wireless communication facilities
- Warehouses must be at least 100 feet from any R-1 or R-2 district
- Storage facilities – must be at least 100 feet from any R-1 or R-2 district
- Adult Oriented Business – subject to provisions of SDCL 11-12-2 and SDCL 11-12-3

MINIMUM LOT REQUIREMENTS Frontage: 60 feet
Area: 6,000 sq. ft.

MINIMUM YARD REQUIREMENTS * Front: 25 feet
Rear: 8 feet
Side: 8 feet

*Lots adjacent to an R-1 or R-2 District shall, along any lot line which borders said R-1 or R-2 District, provide the same yard as required in an R-1 or R-2 District

HEIGHT REGULATIONS Maximum of 45 feet

Exceptions: See 3.01.16

ADDITIONAL B-2 DISTRICT REGULATIONS

- (1) To be a permitted use or Conditional Use Permit in the B-2 District, such use shall be conditional upon the property owner meeting the following performance standards:
 - (A) No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, motor fuels, or welding gasses.
 - (B) No operation shall be carried on which involves the discharge into a sewer or water course liquid wastes which are harmful to normal sewage plant operations or corrosive to sewer pipes and installations.
 - (C) Activities shall be prohibited which are injurious or offensive to occupants of adjacent premises or which emit air contaminants, smoke, odors, gasses, noise or vibrations which are evident beyond the property lines of a lot upon which are evident beyond the property lines of a lot upon which such activity is to be located.

3.04.05 District Regulations Established (continued).

F: FLOODPLAIN DISTRICT

PURPOSE

The purpose of this district is twofold: (1) protect natural drainage courses in their capacities to carry runoff water, by preventing certain types of land use and structures in the area subject to flooding; (2) prevent the destruction or pollution of valuable and irreplaceable natural resources, and to prevent the encroachment of uses which would reduce the potential of these resources.

PERMITTED USES

On-premise signs – subject to provisions of 3.01.07

Permitted signs – subject to provisions of 3.01.09

CONDITIONAL USES

Agriculture, horticulture and ranching buildings

Agriculture, horticulture and ranching uses

Antennas

Farm dwellings and temporary housing for farm laborers

Parks and recreation areas

Satellite dishes

Single-Family dwellings

Utility lines

Utility substations

Water / wastewater treatment facilities and lagoons

MINIMUM LOT REQUIREMENTS

Frontage: 150 feet

Area: 1 acre

MINIMUM YARD REQUIREMENTS

Front: 50 feet

Side: 30 feet

Rear: 30 feet

HEIGHT REGULATIONS

Maximum of 35 feet

Exceptions: See 3.01.16

3.04.05 District Regulations Established (continued).

I-1: LIGHT INDUSTRIAL DISTRICT

PURPOSE

The purpose of this district is to provide space for a wide range of industrial uses and structures, and for certain commercial uses. Regulations are intended to provide guidelines for locating activities which may be injurious or offensive to occupants of adjacent areas, or which emit odors, fumes or gases, dust, smoke, noise, or vibrations which are evident beyond the property of such uses.

PERMITTED USES

Antennas 35 feet or less in height

Any permitted use of the B Districts

Automobile service and repair businesses

Grain storage facilities

On-Premise Signs – subject to provisions of 3.01.07

Permitted Signs – subject to provisions of 3.01.09

Repair Garage – subject to screening of parts stored outdoors

Satellite dishes up to 36” in diameter

Utility lines and substations

Warehouses– must be at least 100 feet from any R-1 or R-2 district

Storage facilities – must be at least 100 feet from any R-1 or R-2 district

CONDITIONAL USES

Antennas over 35 feet in height

Fairgrounds

Off-Premise Signs – subject to provisions of 3.01.08

Satellite dishes over 36” in diameter

Solid waste transfer, processing or recycling facilities

Telecommunications tower, antenna support structures and wireless communication facilities

Water / wastewater treatment facilities and lagoons

Any industrial use which meets the performance standards established in the Additional I-1 District Regulations, and is consistent with the intent and purpose of this district

MINIMUM LOT REQUIREMENTS

Frontage: 80 feet

Area: 10,000 square feet

MINIMUM YARD REQUIREMENTS

Front: 25 feet

Side: 10 feet *

Rear: 20 feet *

*If a side or rear lot line is adjacent to an R -1 or R-2 District, then the minimum side and rear yards shall be 35 feet

HEIGHT REGULATIONS Maximum of 45 feet. Uninhabitable structures will be permitted to have a maximum height of 60 feet.

Exceptions: See 3.01.16

ADDITIONAL I-1 DISTRICT REGULATIONS

- (1) To be a Permitted or Conditional Use in the I-1 District, such use shall be conditional upon the property owner meeting the following performance standards:
 - (A) No operation shall involve the use or storage of highly flammable gases, liquids, or other fire hazards. This provision shall not prohibit the use of normal heating fuels, motor fuels, or welding gases.
 - (B) Activities shall be prohibited which are injurious or offensive to occupants of adjacent premises or which emit air contaminants, smoke, odors, gases, noise or vibrations which are evident beyond the property lines of a lot upon which are evident beyond the property lines of a lot upon which such activity is to be located.
 - (C) Fire Hazard. All flammable substances involved in any activity established in this district shall be handled in accordance with the laws of the State of South Dakota and other applicable federal, state and local regulations.
 - (D) Noise. All noises and noise causing activities shall be muffled so that they will not create a disturbance greater than normal peak traffic noise on a major street, when from any adjacent Residential district. Major street noise for comparison purposes shall be measured at the property line.
 - (E) Sewage and Liquid Waste. No operation shall be carried on which involves the

discharge into a sewer or water course, or onto the ground, of liquid wastes of any radioactive nature, or liquid waste of a chemical nature, which are detrimental to normal sewage plant operation, or are corrosive and damaging to sewer pipes and installations.

- (F) Air Contaminants. Emissions of contaminants and smoke shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state and local regulations.
- (G) Gasses and Odors. Emissions of gasses and odors shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state and local regulations.
- (H) Vibration. All machines including punch presses and stamping machines shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

3.04.05 District Regulations Established (continued).

I-2: GENERAL INDUSTRIAL DISTRICT

PURPOSE

The purpose of this district is to provide land for the widest range of industrial operations appropriate for the City, for those industrial uses which are unable to meet the performance standards for uses within the I-1 Light Industrial District.

PERMITTED USES

Antennas 35 feet or less in height

Manufacturing and assembly

On-Premise Signs – subject to provisions of 3.01.07

Permitted Signs – subject to provisions of 3.01.09

Satellite dishes up to 36” in diameter

Storage Facilities – must be at least 100 feet from any R-1 or R-2 district

Warehouses – must be at least 100 feet from any R-1 or R-2 district

Any industrial use which meets the performance standards established in the Additional I-2 District Regulations, is consistent with the intent and purpose of this district, and is not listed separately as a Conditional Use.

CONDITIONAL USES

Above-ground storage of flammable, noxious liquid petroleum products or chemicals

Antennas over 35 feet in height

Junk yards

Meat packing, slaughtering, eviscerating and skinning

Off-Premise Signs – subject to provisions of 3.01.08

Rendering of by-products of animal slaughtering

Satellite dishes over 36” in diameter

Solid waste transfer, processing or recycling facilities

Telecommunications tower, antenna support structures and wireless communication facilities

Underground or above-ground storage of flammable, noxious gases

MINIMUM LOT REQUIREMENTS

Frontage: 80 feet

Area: 10,000 square feet

MINIMUM YARD REQUIREMENTS

Front: 50 feet Side: 20 feet * Rear: 40 feet *

*If a side or rear lot line is adjacent to the R -1 or R-2 District then the minimum side and rear yards shall be 50 feet

HEIGHT REGULATIONS Maximum of 55 feet. Uninhabitable structures will be permitted to have a maximum height of 60 feet.

Exceptions: See 3.01.16

ADDITIONAL I-2 DISTRICT REGULATIONS

- (1) To be a Permitted Use or Conditional Use in the I-2 District, such use shall be conditional upon the property owner meeting the following performance standards:
 - (A) Appearance. Junk, salvage, auto wrecking and similar operations shall be generally located in areas that are removed from the main thoroughfares of the city; and failing that, the uses shall be buffered from view from streets, and from adjacent properties in another district, by means of a sturdy, site obscuring fence in good repair, or two rows of alternate planted evergreen or red cedar trees. Said buffering shall be at least two (2) feet above the highest stock pile. No storage yard for junk shall be allowed on any lot in an I-2 zoning district that is within five hundred (500) feet of a residential zone. The applicant will be required to submit a rodent prevention plan that will give consideration to a rodent problem arising.
 - (B) Fire Hazard. All flammable substances involved in any activity established in this district shall be handled in accordance with the laws of the State of South Dakota and other applicable federal, state and local regulations.
 - (C) Noise. All noises and noise causing activities shall be muffled so that they will not create a disturbance greater than normal peak traffic noise on a major street, when from any adjacent Residential district. Major street noise for comparison purposes shall be measured at the property line.

- (D) Sewage and Liquid Waste. No operation shall be carried on which involves the discharge into a sewer or water course, or onto the ground, of liquid wastes of any radioactive nature, or liquid waste of a chemical nature, which are detrimental to normal sewage plant operation, or are corrosive and damaging to sewer pipes and installations.
- (E) Air Contaminants. Emissions of contaminants and smoke shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state and local regulations.
- (F) Gasses and Odors. Emissions of gasses and odors shall not exceed maximum standards set by the laws of the State of South Dakota and other applicable federal, state and local regulations.
- (G) Vibration. All machines including punch presses and stamping machines shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby lots.

3.04.05 District Regulations Established (continued).

R-1: RESIDENTIAL DISTRICT

PURPOSE

The purpose of this district is to provide locations for dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible uses and facilities.

PERMITTED USES

- Antennas 35 feet or less in height
- Libraries
- On-Premise Signs – subject to provisions of 3.01.07
- Parks and Recreation Areas
- Permitted Signs – subject to provisions of 3.01.09
- Satellite dishes up to 36” in diameter
- Single-family dwellings

CONDITIONAL USES

- Antennas over 35 feet in height
- Cemeteries
- Cultural areas and facilities
- Day care centers
- Fairgrounds
- Home occupations
- Hospitals and medical clinics
- Houses of worship
- Manufactured homes not in an approved MHP
- Multiple-family dwellings
- Offices
- Professional service businesses
- Rest, convalescent and nursing homes
- Satellite dishes over 36” in diameter
- Schools

Two-family dwellings
Utility lines and substations
Private garage (as a principal use)

MINIMUM LOT REQUIREMENTS

Frontage: 60 feet
Area: Single-family: 7,000 square feet
Multi-family: 3,000 square feet per unit
Other uses: Double the area of the combined footprint of all proposed buildings

MINIMUM YARD REQUIREMENTS*

Front: 25 feet
Side: 5 feet
Rear: 5 feet

* Along an improved block, where one or more structures already exist along the same side of a street, the yard requirements shall be the average of the front yards existing along said block. Notwithstanding the above provision, in no case shall the front yard be less than 15 feet.

HEIGHT REGULATIONS Single Family Dwellings: Maximum of 35 feet
Other Allowable Uses: Maximum of 75 feet for steeple/tower and not more than 45 feet for principal building

PROHIBITED USE Pole or steel buildings, as defined in these Zoning Regulations, shall not be permitted or allowed in the Residential District, R-1, or the Manufactured Housing District, R-2, as a permitted use, conditional use, or as a variance.

3.04.05 District Regulations Established (continued).

R-2: MANUFACTURED HOUSING DISTRICT

PURPOSE

The purpose of this district is to provide for high-density residential areas in the City that are or will be developed for manufactured housing.

PERMITTED USES

Manufactured home parks (MHP)

Manufactured homes in an approved Manufactured Home Park (MHP)

On-Premise Signs – subject to provisions of 3.01.07

Permitted Signs – subject to provisions of 3.01.09

Satellite dishes up to 36” in diameter

CONDITIONAL USES

Satellite dishes over 36” in diameter

Utility lines and substations

MINIMUM LOT REQUIREMENTS

Frontage: 50 ft.

Area: 6,000 sq. ft.

MINIMUM YARD REQUIREMENTS

Front: 25 ft.

Side: 7 ft.

Rear: 10 ft.

HEIGHT REGULATIONS	Single Family Dwellings:	Maximum of 35 feet
	Other Allowable Uses:	Maximum of 75 feet for steeple/tower and not more than 45 feet for principal building

** Further regulations governing the Manufactured Housing District are established under 3.01.05 of these Zoning Regulations.

PROHIBITED USE Pole or steel buildings, as defined in these Regulations, shall not be permitted or allowed in the Residential District, R-1, or the Manufactured Housing District, R-2, as a permitted use, conditional use, or as a variance.

ARTICLE 4

ADMINISTRATION

CHAPTER 4.01: GENERALLY

CHAPTER 4.02: ZONING ADMINISTRATOR

CHAPTER 4.03: BOARD OF ADJUSTMENT

CHAPTER 4.04: PROCEDURES FOR APPLICATIONS

CHAPTER 4.05: APPEALS

Chapter 4.01 GENERALLY

4.01.01 Applications and Fee Schedule. The Zoning Administrator shall develop an omnibus application, to include requests for Building Permits, Conditional Uses, Variances and Amendments. Such application will be available from the Zoning Administrator or the Finance Officer. A schedule of fees, charges, and expenses for permits, rezonings, appeals, and other matters pertaining to these regulations shall be established by resolution of the City Council. The current fee schedule shall be available from the Zoning Administrator or Finance Officer. All fees shall be the property of the City and shall be paid over to the Finance Officer for credit to the General Fund of the City which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

4.01.02 Issuance of Permits. Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and any other use, arrangement, or construction at variance with that authorized shall be a violation of these regulations.

4.01.03 Expiration of Permits. If the work described in any permit has not begun within 180 days from the date of issuance thereof, said permit shall expire. If the activity described in any permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator. Written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained. Any permittee holding an unexpired permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required for this section for good and satisfactory reasons. The Zoning Administrator may, except as otherwise provided herein, extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

Chapter 4.02 ZONING ADMINISTRATOR

4.02.01 Establishment and Purpose. The position of Zoning Administrator is hereby established for the City of Parker. The Zoning Administrator shall be directly employed by the City as a full or part time employee or shall be hired as a consultant for the City. The City Council shall appoint the Zoning Administrator. The Zoning Administrator shall be compensated according to the City of Parker job

description for said position of Zoning Administrator. The Zoning Administrator shall administer and enforce these regulations. It is the intent of these regulations that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator.

4.02.02 Duties. The Zoning Administrator shall receive applications for Building Permits, Conditional Uses, Variances and Zoning Amendments.

- (A) For Building Permits, the Zoning Administrator shall approve the application only if in accordance with the provisions of the City's Zoning Regulations and current applicable building codes/standards.
- (B) For Conditional Uses and Variances, the Zoning Administrator shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application.
- (C) For Zoning Amendments, the Zoning Administrator shall review the application, and shall make comments regarding said application to the Planning Commission.
- (D) The Zoning Administrator shall monitor progress and inspect completion of all building permits, conditional use permits, variances and amendments.

4.02.03 Powers. If the Zoning Administrator shall find that any of the provisions of these regulations are being violated, the person responsible for such violations shall be notified in writing, indicating the nature of the violation and ordering that such violation be corrected within 30 days of such notice. The notice shall also include the penalty for failure to comply with the zoning requirements. The Zoning Administrator may order discontinuance of illegal use of land, buildings, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Nothing in this Section shall limit the power of the Zoning Administrator, or the City of Parker, from proceeding directly to Circuit Court to enforce any of the provisions of these regulations when the Zoning Administrator or the City of Parker determine such action must be taken to protect the interests of the City of Parker, or when the City of Parker determines that action is required to protect the health, safety, morals, or general welfare of the residents of the City of Parker.

Chapter 4.03 BOARD OF ADJUSTMENT

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

4.03.02 Powers and Duties. The Board of Adjustment shall have the following powers and duties:

- (A) To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Zoning Administrator in the enforcement of these regulations.
- (B) To hear and decide appeals to decisions made by the Zoning Administrator regarding Zoning Permits.
- (C) To hear and decide upon petitions for variances to vary the strict applications of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.
- (D) To hear and decide only such conditional use permits as the Board of Adjustment is specifically authorized to pass on by the terms of these regulations; to decide such questions as are involved in determining whether conditional use permits should be granted; and to grant conditional use permits with such conditions and safeguards as are appropriate under these regulations, or to deny conditional use permits when not in harmony with the purpose and intent of these regulations, as well as the most recently adopted Comprehensive Plan.

Chapter 4.04 PROCEDURES FOR APPLICATIONS

4.04.01 Building, Moving, and Demolition Permits. No building, structure, fence, hard surfacing or excavation regulated by the City of Parker shall be erected, constructed, enlarged, altered, prepared, moved, improved, removed, converted or demolished unless a separate permit for each building, structure, fence, hard surfacing or excavation has first been obtained from the Zoning Administrator or Finance Office. No permit shall be issued except in conformity with the provisions of these regulations, unless a written approval is received for a conditional use, or variance as provided by these regulations.

- (A) An Application for a Building, Moving, or Demolition Permit, available from the Zoning Administrator or Finance Officer, shall be completed by the landowner requesting the

Building, Moving, or Demolition Permit. Completed applications shall be returned to the Zoning Administrator for review. To be considered complete, the application form shall be accompanied by the following additional items:

- (1) Any required attachments and City fees; and
- (2) Two copies of plans drawn to scale, showing the address of the property and the legal description; the scale and north arrow; the distance from all building lines to the property lines at the closest points; the name and location of all adjacent streets, alleys, waterways and other public places; the dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration; and
- (3) Any additional information, as requested by the Zoning Administrator, as lawfully may be required to determine conformance with and provide for the enforcement of these regulations.

EXCEPTION: The Zoning Administrator may waive the submission of plans, if he or she finds that the nature of the work or change in land use applied for is such that reviewing of plans is not necessary to obtain compliance with this Article.

- (B) A temporary Building, Moving or Demolition Permit may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion. The Zoning Administrator may attach conditions and safeguards to said temporary permit to protect the safety of the occupants and the public.
- (C) One copy of the plans shall be returned to the applicant, after the Zoning Administrator has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Zoning Administrator for City records.
- (D) If the Zoning Administrator determines the proposed action would not be in compliance with the provisions of these regulations, a Building, Moving or Demolition Permit may not be issued, except upon completion of one of the following processes established in these regulations, as may be applicable to such proposed action. The Zoning

Administrator shall inform the applicant when one of the following processes may be applicable:

- (1) Conditional Use Permit, 4.04.02;
- (2) Variance, 4.04.03;
- (3) Amendment; 4.04.04.

- (E) No Building, Moving or Demolition Permit shall be granted until the applicant shall file with the Finance Officer a promise running to the City that the applicant will promptly repair and make good, to the satisfaction of the City Council and at the expense of the applicant any and all damage to any pavement sidewalk, crosswalk, hydrant, street, alley or other property, done or caused by himself or his employees, in the demolition or moving of such building or part thereof, or in connection with the moving or demolition thereof.

Promise shall also be conditioned that the applicant promptly fill in basement areas left open as a result of such moving or demolition and to restore such site(s) to a safe and sanitary condition. Making use of rubble from the demolished building or any other building for the purpose of filling in the basement area left open as a result of such moving or demolition is prohibited. The foundation of any structure that is removed, demolished or relocated must be removed from the property and the basement or excavation remaining after removal of the foundation must be filled with clean fill. The applicant shall indemnify and hold harmless the City against any and all liability for damages, costs, and expenses, arising or be incurred in favor of any person by reason of any negligence or misconduct or act on his part of said building or part thereof or the use of any public ground for such purposes (SDCL 9-29-13).

- (F) No building or part of a building being moved or demolished shall be allowed to stand still in any public street or any public ground for more than eight (8) hours without written permission from a law enforcement officer authorized by the City of Parker to do so.
- (G) No Building, Moving or Demolition Permit granted by the City shall authorize the holder thereof to break, injure, or move any telephone, electric light, power or cable TV wire or pole, or to cut, trim, or otherwise interfere with any property without the written permission of the owner or owners thereof. (SDCL 9-34-11)
- (H) A building permit shall be required for the moving in of a manufactured home into a

manufactured home park (R-2 zoning designation). For purposes of these zoning regulations, a building permit will also be required for the moving in of modular homes into the R-1 District as well as for manufactured homes outside of an approved manufactured home park (moved into an R-1 District).

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

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

(A) Procedure

The Board of Adjustment may authorize by Conditional Use Permit those uses specifically designated as Conditional Uses in Chapter 3.04. The Board of Adjustment shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of such Conditional Use Permit.

(B) Application

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

- (1) Legal description of the land on which such Conditional Use is requested, together with local street address.
- (2) Name and address of each owner of the property.
- (3) Name, address, phone number and signature of the applicant.
- (4) Zoning district classification under which the property is regulated at the time of such application.

- (5) Be accompanied with a site plan, unless waived by the Zoning Administrator.
- (6) Any other information concerning the property as may be requested by the Zoning Administrator or the Board of Adjustment.

(C) Fees

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

(D) Information on Site Plan

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

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

Approved plans shall not be changed, modified, or altered without authorization from the Board of Adjustment giving final approval, and all work shall be done in accordance with

the approved plans.

(E) Review and Public Hearing Procedure

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

The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Conditional Use Permit no less than seven (7) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the city.

The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Zoning Administrator:

- (1) The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment.
- (2) Before any Conditional Use Permit shall be granted, the Board of Adjustment may make written findings certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - (a) Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - (b) Off-street parking and loading areas where required;
 - (c) Refuse and service areas, with particular reference to (a) and (b) above;

- (d) Utilities, with reference to locations, availability, and compatibility;
- (e) Screening and buffering with reference to type, dimensions and character;
- (f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;
- (g) Required yards and other open space;
- (h) General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;
- (i) The goals and objectives of the most recently adopted Comprehensive Plan.

The Board of Adjustment shall make a finding that it is either empowered or not empowered by these Zoning Regulations to grant the requested Conditional Use Permit, and that such Conditional Use Permit is either consistent or inconsistent with the intent of these Zoning Regulations and the City's most recently adopted Comprehensive Plan. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any conditional use permit or arrive at any determination.

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

- (1) There was no public objection presented during the public hearing process for the original conditional use permit;
- (2) The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit;
- (3) Due to other on-going permitting processes or necessary engineering/planning studies relating to the specific project for the conditional use permit that may impact the one-year schedule for project completion.

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

Any person aggrieved by any decision of the Board of Adjustment may petition a court of record within thirty (30) days after the filing of the Board's decision as provided by SDCL 11-4-25.

4.04.03 Variances.

The Board of Adjustment shall have the jurisdiction to hear and decide upon petitions for variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. For purposes of these regulations, public interest shall include the interests of the public at large within the City, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance. The following issues are to be considered, each and all of them, as determining factors in whether or not the issuance of a variance is justified:

- (A) An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.
- (B) Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
- (C) The variance requested is the minimum variance that will alleviate the hardship.
- (D) Granting of the variance will comply with the general purpose and intent of this ordinance, and will not be offensive to adjacent areas or to the public welfare.
- (E) No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.

- (F) Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.
- (G) In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Variance. A Variance shall remain valid only as long as the property owner complies with any terms and conditions of the Variance, as attached by the Board of Adjustment.
- (H) An Application for a Variance, available from the Zoning Administrator of the City of Parker, shall be completed by the landowner requesting the Variance. Completed applications shall be returned to the Zoning Administrator for review. To be considered completed, the application shall contain the following information:
 - (1) Legal description of the land on which such variance is requested, together with local street address;
 - (2) Name and address of each owner of the property;
 - (3) Name, address, phone number and signature of the applicant;
 - (4) Zoning district classification under which the property is regulated at the time of such application;
 - (5) Description of the variance sought from the Zoning Regulations;
 - (6) Be accompanied with a site plan, unless waived by the Zoning Administrator.
- (I) The Zoning Administrator shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.
- (J) The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Variance no less than seven (7) days prior to the scheduled

public hearing. No less than ten (10) days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the city.

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

Any person aggrieved by any decision of the Board of Adjustment may petition a court of record within thirty (30) days after the filing of the Board's decision as provided by SDCL 11-4-25.

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

Unless otherwise provided for in these Zoning Regulations, any change in these Zoning Regulations shall require City Council approval of an ordinance describing said changes.

The City Council may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting an Amendment shall be followed:

- (A) An Application for Amendment or Change of Zone, available from the Zoning Administrator or Finance Officer, shall be completed by the landowner or other person(s) requesting the Amendment. Completed applications shall be returned to the Zoning Administrator for review. To be considered by the Planning Commission, the application form shall be completed, and shall be accompanied by the following additional items:
 - (1) Any required attachments and City fees, including Registered or Certified Mail costs in (C);
 - (2) Any additional information, as requested by the Zoning Administrator, as lawfully may be required to determine conformance with and provide for the enforcement

of these regulations.

- (B) The Zoning Administrator shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.
- (C) The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Planning Commission. The Zoning Administrator shall notify the landowner by Registered or Certified Mail at least seven (7) days before the public hearing, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Amendment at least seven (7) days before the public hearing, if applicable. The Zoning Administrator shall also publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed Amendment; such notice shall be published once, at least ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Administrator shall notify all owners of property affected by the boundary change, by Registered or Certified Mail at the expense of the applicant, at least seven (7) days before the public hearing.
- (D) The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- (E) The Planning Commission shall either recommend or not recommend approval of the Amendment or Change of Zone to the City Council.
- (F) The City Council shall hold at least one public hearing on the proposed Zoning Amendment or Change of Zone. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the City Council. The Zoning Administrator shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed Amendment; such notice shall be published once, at least ten (10) days prior to the public hearing. In addition, the Zoning Administrator shall notify the landowner by Registered or Certified Mail at least seven (7) days before the public hearing, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Amendment at least seven (7) days before the public hearing, if applicable.
- (G) No application requesting a change in zoning district classification on any property

whose application includes any such property either entirely or substantially the same as that which has been denied by the City Council, shall again be considered by the Planning Commission before the expiration of six months from the date of the final action of the City Council.

Chapter 4.05 APPEALS

4.05.01 Appeal Procedure.

- (A) Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Administrator, may present to that Official, a notice of appeal, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be filed with the Zoning Administrator of the City of Parker, who shall transmit to the Board of Adjustment all information and records concerning the appeal. Such notice of appeal shall be presented to the Zoning Administrator within thirty (30) days after the filing of the decision in the office of the Zoning Administrator.
- (B) The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the Chairman and at such other times as necessary. Each session at which an appeal is to be heard shall be a public meeting. No less than ten (10) days before the public hearing, the Zoning Administrator of the City of Parker shall publish notice of the public hearing in a legal newspaper of the city.
- (C) The public hearing shall be held. The appellant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any appeal or arrive at any determination.