

# Belle Fourche

ZONING ORDINANCE

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## **DIVISION I. GENERAL ZONING**

### **CHAPTER 17.02 GENERAL PROVISIONS**

#### **17.02.010 AUTHORITY**

This Title is enacted under the authority of the laws of the State of South Dakota and is hereby adopted by the City of Belle Fourche Common Council.

#### **17.02.020 SHORT TITLE**

These regulations shall be known and may be cited as *The City of Belle Fourche Zoning Ordinance*.

#### **17.02.030 APPLICABILITY AND JURISDICTION**

This Title applies to all land, buildings, structures, and uses thereof located within the City of Belle Fourche. No land shall be used and no structure shall be constructed, occupied, enlarged, altered, or moved until all applicable review and approval processes have been followed; all applicable approvals have been obtained; and, all required permits or authorizations to proceed have been issued.

#### **17.02.040 PURPOSE**

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

#### **17.02.050 CONFLICTS WITH OTHER LAWS AND PRIVATE AGREEMENTS**

In the interpretation and application of the provisions of this ordinance, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this Title are at variance with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern. These regulations are not intended to nullify any easement, covenant, or any other private agreement or restriction. If the provisions of this Title impose a greater restriction than imposed by a private agreement, the provisions of this Title will control. If the provisions of a private agreement impose a greater restriction than this ordinance, the provisions of the private agreement will control. The City shall not be responsible for monitoring or enforcing private agreements.

## **CHAPTER 17.04 ESTABLISHMENT OF ZONING DISTRICTS AND MAP**

For the purpose of promoting the public health, safety, convenience, and the general welfare of the community, Belle Fourche is divided into twelve (12) base zoning districts and two (2) overlay districts:

1. Rural Residential District
2. Single-Family Residential District
3. Small Lot Single-Family Residential District
4. Multi-Family Residential District
5. Manufactured Home Residential District
6. Central Commercial District
7. Highway Commercial District
8. Neighborhood Commercial District
9. Light Industrial District
10. Heavy Industrial District
11. Public & Semi-Public District
12. Agricultural District
13. Gateway Overlay District
14. Floodplain Overlay District

### **17.04.010 ZONING MAP**

The location and boundaries of the zoning districts established by this Title are denoted and defined as shown on the map entitled *The Official Zoning Map of the City of Belle Fourche, South Dakota*. The zoning map is incorporated into this Title as is fully set forth and described in this section. The *Official Zoning Map* shall be kept and maintained by the City Engineer or designee and shall be available for inspection and examination by members of the public at all reasonable times as any other public record.

### **17.04.020 SCOPE OF REGULATIONS**

The regulations applying to each district include specific limitations of the development and use of land and structures, height and bulk of structures, density of population, lot area, yard dimensions, and area of lot that can be covered by structures.

### **17.04.030 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the centerlines of such streets, highways, or alleys.
- B. Boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be the boundary lines.
- C. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
- D. Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerline of such watercourses and the boundaries shall be deemed to be to the limit of the jurisdiction of the City unless otherwise indicated.
- E. Boundaries shown as following or closely following the limits of political jurisdictions shall be construed as following such limits.
- F. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive districts shall govern the entire parcel in question, unless otherwise determined by the governing body.
- G. Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of land revert shall become the classification of the vacated land.

**17.04.040 USE REGULATIONS AND DEVELOPMENT STANDARDS**

The use regulations dictate the uses permitted in the district and work together with the development standards to promote the purpose of the zoning district and maintain compatibility within the district. The use regulations and development standards provide certainty to landowners, builders, and neighbors about the limits of development of land within a zoning district.



## CHAPTER 17.06 RESIDENTIAL DISTRICTS

The Residential District designations are intended to reserve areas for residential dwellings; provide a range of residential densities and variety of housing types; ensure adequate light, air, privacy, and open space for residences; ensure compatibility between residential uses and other land uses; and, ensure the adequate provision of public infrastructure to serve residential areas.

### 17.06.010 RURAL RESIDENTIAL DISTRICT

The Rural Residential District is established to accommodate large-lot, single-family, detached residential uses and accessory development that supports rural character, allows light agricultural accessory uses, and preserves open space.

- A. Use regulations and development standards. Table 6-1 sets forth the Rural Residential District use regulations and development standards.

<b>Table 6-1. Rural Residential Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Basic utilities and services Home occupations Light agricultural accessory uses Single-family detached residential dwellings	Accessory dwelling units Bed and breakfasts Community facilities Family day cares Group residential dwellings Non-conforming home occupations Parks and open areas Religious institutions Schools Utility substations Wind energy conversion systems Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	80,000	
Lot coverage, maximum (%)	20	
Lot width, minimum (ft)	140	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	35	See section 17.22.030.D
Side, interior	25	15
Side, corner	25	25
Rear	25	15
Building height (ft)	35	35

**17.06.020 SINGLE-FAMILY RESIDENTIAL DISTRICT**

The Single-Family Residential District is established to accommodate residential dwellings on moderately-sized lots that are compatible with a traditional single-family neighborhood character.

- A. Use regulations and development standards. Table 6-2 sets forth the Single-Family Residential District use regulations and development standards.

<b>Table 6-2. Single-Family Residential Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Basic services and utilities Home occupations Single-family detached residential dwellings	Accessory dwelling units Bed and breakfasts Community facilities Duplex residential dwellings Family day cares Group residential dwellings Non-conforming home occupations Parks and open areas Religious institutions Schools Single-family attached residential dwellings Utility substations Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	7,000 + 2,000 per additional unit	
Lot coverage, maximum (%)	30	
Lot width, minimum (ft)	50	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	25	35
Side, interior	7 (single-story) 12 (multi-story)	7 (= or < 90' from front property line) 5 (> 90' from front property line)
Side, corner	15	25
Rear	25	5
Building height (ft)	35	15

**17.06.030 SMALL LOT SINGLE-FAMILY RESIDENTIAL DISTRICT**

The Small Lot Single-Family Residential District is established to accommodate residential infill development that is compatible with the neighborhood character of the area.

- A. Use regulations and development standards. Table 6-3 sets forth the Small Lot Single-Family Residential District use regulations and development standards.

<b>Table 6-3. Small Lot Single-Family Residential Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Basic services and utilities Home occupations Single-family detached residential dwellings	Accessory dwelling units Bed and breakfasts Community facilities Duplex residential dwellings Family day cares Group residential dwellings Manufactured home residential dwellings Non-conforming home occupations Parks and open areas Religious institutions Schools Single-family attached residential dwellings Utility substations Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	4,000 + 2,000 per additional unit	
Lot coverage, maximum (%)	50	
Lot width, minimum (ft)	50	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	15	25
Side, interior	7 (single-story) 12 (multi-story)	7 (= or < 90' from front property line) 5 (> 90' from front property line)
Side, corner	15	25
Rear	15	5
Attached garage front setback	20	--
Building height (ft)	35	15

**17.06.040 MULTI-FAMILY RESIDENTIAL DISTRICT**

The Multi-Family Residential District is established to accommodate a range of higher-density housing types.

- A. Use regulations and development standards. Table 6-4 sets forth the Multi-Family Residential District use regulations and development standards.

<b>Table 6-4. Multi-Family Residential Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Basic services and utilities Duplex residential dwellings Home occupations Multi-family residential dwellings Single-family attached residential dwellings Single-family detached residential dwellings	Accessory dwelling units Bed and breakfasts Community facilities Day care centers Family day cares Group residential dwellings Non-conforming home occupations Parks and open areas Religious institutions Schools Utility substations Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	7,000 + 2,000 per additional unit	
Lot coverage, maximum (%)	Must meet open space requirements	
Lot width, minimum (ft)	50	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	25	35
Side, interior	7 (single-story) 12 (multi-story)	7 (= or < 90' from front property line) 5 (> 90' from front property line)
Side, corner	15	25
Rear	25	5
Building height (ft)	35	15

**17.06.050 MANUFACTURED HOME RESIDENTIAL DISTRICT**

The Manufactured Home Residential District is established to provide appropriate locations for manufactured homes on individual lots and in manufactured home parks.

- A. Use regulations and development standards. Table 6-5 sets forth the Manufactured Home Residential District use regulations and development standards.

<b>Table 6-5. Manufactured Home Residential Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Basic services and utilities Home occupations Manufactured home residential dwellings Single-family detached residential dwellings	Accessory dwelling units Bed and breakfasts Community facilities Duplex residential dwellings Family day cares Group residential dwellings Manufactured home parks Non-conforming home occupations Parks and open areas Religious institutions Schools Single-family attached residential dwellings Utility substations Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	7,000 + 2,000 per additional unit	
Lot coverage, maximum (%)	30	
Lot width, minimum (ft)	50	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	25	35
Side, interior	7 (single-story) 12 (multi-story)	7 (= or < 90° from front property line) 5 (> 90° from front property line)
Side, corner	15	25
Rear	25	5
Building height (ft)	35	15

## CHAPTER 17.08 COMMERCIAL DISTRICTS

The Commercial District designations are intended to provide areas for offices, retail stores, and personal service establishments that provide goods and services to the residents of Belle Fourche and the surrounding area; provide employment opportunities; ensure compatibility between commercial uses and other land uses; and, facilitate the provision of infrastructure improvements to meet the commercial needs of Belle Fourche.

### 17.08.010 CENTRAL COMMERCIAL DISTRICT

The Central Commercial District is established to provide a mix of commercial uses with a local and regional market that support and enhance downtown Belle Fourche. The district also accommodates higher-density residential uses in order to bring additional activity to the downtown area. Development of commercial uses on the ground floor with housing located in upper stories or at the rear of the building is encouraged.

- A. Use regulations and development standards. Table 8-1 sets forth the Central Commercial District use regulations and development standards.

<b>Table 8-1. Central Commercial District Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Administrative offices Amusement and recreation establishments Bars Basic services and utilities Bed and breakfasts Caretaker living quarters Clubs and lodges Community facilities Day care centers Family day cares Financial institutions Home occupations Hospitals Hotels Medical offices Nursing homes Parking lots and garages Parks and open areas Personal services Religious institutions Restaurants, without a drive-through Retail sales and services Schools Veterinary clinics	Accessory dwelling units Crematoriums Duplex residential dwellings Multi-family residential dwellings Non-conforming home occupations Restaurants, drive-through Shopping centers Single-family attached residential dwellings Single-family detached residential dwellings Utility substations Vehicle service and repair establishments Wineries, breweries & distilleries Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	None	
Lot coverage, maximum (%)	None	
Lot width, minimum (ft)	None	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	0	0
Side, interior	0	0
Side, corner	0	0
Rear	0	0
Lot line abutting Residential District	15	15
Building height (ft)	35	15

**17.08.020 HIGHWAY COMMERCIAL DISTRICT**

The Highway Commercial District is established to accommodate highway-oriented businesses and services that generally serve both a local and regional market.

- A. Use regulations and development standards. Table 8-2 sets forth the Highway Commercial District use regulations and development standards.

<b>Table 8-2. Highway Commercial District Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Administrative offices Agricultural sales & services Amusement & recreation establishments Athletic fields Auction houses Bars Basic utilities & services Building material sales Caretaker living quarters Clubs & lodges Community facilities Day care centers Financial institutions Garden centers Hospitals Hotels Kennels Medical offices Parking lots & garages Parks & open areas Personal services Religious institutions Restaurants, drive-through Restaurants, without a drive-through Retail sales & services Schools Shopping centers Vehicle sales & rentals Vehicle service & repair establishments Veterinary clinics	Crematoriums Recreational vehicle parks Self-service storage facilities Sexually-oriented businesses Utility substations Wineries, breweries & distilleries Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	20,000	
Lot coverage, maximum (%)	80	
Lot width, minimum (ft)	75	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	50	60
Side, interior	10	10
Side, corner	15	25
Rear	30	30
Building height (ft)	35	15

**17.08.030 NEIGHBORHOOD COMMERCIAL DISTRICT**

The Neighborhood Commercial District is established to accommodate a combination of businesses and services with a local market and higher-density housing uses. The district allows for more intense development on high-traffic streets to provide a buffer between busy streets and residential neighborhoods. Commercial uses are primarily locally-oriented, personal service, and office uses. Development of commercial uses on the ground floor with housing located in upper stories is encouraged.

- A. Use regulations and development standards. Table 8-3 sets forth the Neighborhood Commercial District use regulations and development standards.

<b>Table 8-3. Neighborhood Commercial District Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Administrative offices	Accessory dwelling units	
Amusement & recreation establishments	Bars	
Basic services & utilities	Building material sales	
Bed & breakfasts	Crematoriums	
Clubs & lodges	Garden centers	
Community facilities	Group residential dwellings	
Day care centers	Hospitals	
Duplex residential dwellings	Hotels	
Family day cares	Kennels	
Financial institutions	Non-conforming home occupations	
Home occupations	Parking lots & garages	
Medical offices	Recreational vehicle parks	
Multi-family residential dwellings	Religious institutions	
Parks & open areas	Restaurants, drive-through	
Personal services	Schools	
Restaurants, without a drive-through	Self-service storage facilities	
Retail sales & services	Shopping centers	
Single-family attached residential dwellings	Utility substations	
Single-family detached residential dwellings	Vehicle sales & rentals	
Veterinary clinics	Vehicle service & repair establishments	
	Wineries, breweries & distilleries	
	Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	7,000	
Lot coverage, maximum (%)	Residential uses must meet applicable open space requirements.	
Lot width, minimum (ft)	50	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	25	35
Side, interior	7 (single-story) 12 (multi-story)	7 (= or < 90° from front property line) 5 (> 90° from front property line)
Side, corner	15	15
Rear	15	10
Building height (ft)	35	15



## CHAPTER 17.10 INDUSTRIAL DISTRICTS

The Industrial District designations are intended to reserve areas for industrial use; protect industrial uses from incompatible uses such as dwellings; protect residential, commercial, and nuisance-free industrial uses from the adverse effects of certain industrial uses; minimize traffic and loading issues on nearby land uses; and, facilitate the planning and provision of infrastructure improvements to meet the industrial needs of Belle Fourche.

### 17.10.010 LIGHT INDUSTRIAL DISTRICT

The Light Industrial District is established to provide areas for low-intensity industrial uses and limited commercial and service uses that are compatible with non-industrial uses on adjacent or nearby properties. The uses allowed in the district are typically conducted within an enclosed building so as not to produce forms of nuisances beyond the property lines.

- A. Use regulations and development standards. Table 10-1 sets forth the Light Industrial District use regulations and development standards.

<b>Table 10-1. Light Industrial District Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Administrative offices Agricultural sales & services Auction houses Basic services & utilities Building material sales Caretaker living quarters Garden centers Industrial technology uses Kennels Light industrial uses Medical or dental laboratories Railroad facilities Retail sales & services Self-service storage facilities Shopping centers Utility substations Vehicle sales & rentals Vehicle service & repair establishments Veterinary clinics Warehouse & freight movement uses Wholesale sales uses	Detention facilities Livestock sales Oil & gas tank storage facilities Sexually-oriented businesses Shooting ranges Wind energy conversion systems Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	20,000	
Lot coverage, maximum (%)	75	
Lot width, minimum (ft)	75	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	25	35
Side, interior	15	15
Side, corner	15	15
Rear	25	25
Lot line abutting Residential District	30	15
Building height (ft)	35	35

**17.10.020 HEAVY INDUSTRIAL DISTRICT**

The Heavy Industrial District is established to provide areas for intensive industrial uses that may create some form of nuisance beyond property lines. The uses allowed in the district may not be directly compatible with other types of land uses and may require isolation or buffering in order to protect the community. Access to major transportation infrastructure is typically required; therefore, this district shall be located near railroad or highway networks.

- A. Use regulations and development standards. Table 10-2 sets forth the Heavy Industrial District use regulations and development standards.

<b>Table 10.2. Heavy Industrial District Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Administrative offices	Airports	
Agricultural sales & services	Automobile wrecking and junkyards	
Auction houses	Oil & gas tank storage facilities	
Basic services & utilities	Power plants	
Building material sales	Resource extraction uses	
Caretaker living quarters	Sexually-oriented businesses	
Crematoriums	Waste-related facilities	
Heavy industrial uses	Wind energy conversion systems	
Industrial technology uses	Wireless telecommunication facilities	
Kennels		
Light industrial uses		
Medical or dental laboratories		
Railroad facilities		
Retail sales & services		
Self-service storage facilities		
Shooting ranges		
Shopping centers		
Utility substations		
Vehicle service & repair establishments		
Vehicles sales & rentals		
Veterinary clinics		
Warehouse & freight movement uses		
Wholesale sales uses		
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (acre)	1	
Lot coverage, maximum (%)	75	
Lot width, minimum (ft)	140	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	25	35
Side, interior	25	15
Side, corner	25	15
Rear	25	25
Lot line abutting Residential District	50	25
Building height (ft)	90	35

## CHAPTER 17.12 SPECIAL PURPOSE DISTRICTS

The Special Purpose District designations are intended to reserve areas for specific purposes that will benefit the Belle Fourche community.

### 17.12.010 PUBLIC & SEMI-PUBLIC DISTRICT

The Public & Semi-Public District is established to accommodate parks and open spaces, recreation uses, governmental, civic and non-profit uses.

- A. Use regulations and development standards. Table 12-1 sets forth the Public & Semi-Public District use regulations and development standards.

<b>Table 12-1. Public &amp; Semi-Public District Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Administrative offices Athletic fields Basic services & utilities Caretaker living quarters Cemeteries Clubs & lodges Community facilities Day care centers Golf courses Parking lots & garages Parks & open areas Rodeo & fairgrounds Schools	Recreational vehicle parks Student housing facilities Utility substations Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (sq ft)	None	
Lot coverage, maximum (%)	50	
Lot width, minimum (ft)	None	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	25	25
Side, interior	25	25
Side, corner	25	25
Rear	25	25
Building height (ft)	35	15

**17.12.020 AGRICULTURAL DISTRICT**

The Agricultural District is established to accommodate land situated on the fringe of the urban area currently used for agricultural purposes, but that is expected to undergo urbanization in the future. The permitted uses and their intensity are designed to encourage the protection of agricultural uses until urbanization is warranted.

- A. Use regulations and development standards. Table 12-2 sets forth the Agricultural District use regulations and development standards.

<b>Table 12-2. Agricultural District Use Regulations &amp; Development Standards</b>		
<b>USE REGULATIONS</b>		
Permitted Uses	Conditional Uses	
Agricultural uses Basic services & utilities Caretaker living quarters Home occupations Kennels Single-family detached residential dwellings Support housing facilities Veterinary clinics	Accessory dwelling units Agricultural sales & services Bed & breakfasts Community facilities Family day cares Garden centers Group residential dwellings Livestock sales Non-conforming home occupations Parks & open areas Religious institutions Rodeo & fairgrounds Schools Utility substations Wind energy conversion systems Wireless telecommunication facilities	
<b>DEVELOPMENT STANDARDS</b>		
Lot area, minimum (acres)	20	
Lot coverage, maximum (%)	10	
Lot width, minimum (ft)	None	
Setbacks (ft)	Primary Structure	Accessory Structure
Front	35	See section 17.22.030.D
Side, interior	25	15
Side, corner	25	25
Rear	25	15
Building height (ft)	35	35

## CHAPTER 17.14 OVERLAY DISTRICTS

The Overlay District designations are intended to provide supplemental regulations or standards that apply to a specific geographical area in addition to the base zoning district regulations.

### 17.14.010 GATEWAY OVERLAY DISTRICT

The Gateway Overlay District is established to promote quality design at Belle Fourche's gateway areas as depicted on the *Official Zoning Map*. The standards included in this section are intended to create a positive impression upon entering the city.

- A. Screening of parking areas. Wherever a surface parking area faces a street frontage, the parking area shall be screened from the street by a landscaped area located between the property line and the parking area. When a lot contains more than one street frontage, the area of all street yards may be combined to determine compliance with this section. The landscaped area shall conform to the following requirements:
  - 1. The landscaped area shall be a minimum of ten (10) feet in depth and run the entire length of the street frontage.
  - 2. For every one hundred (100) feet of required landscaped area (any fraction of .5 or less shall be rounded down; fractions exceeding .5 shall be rounded up) the following landscaping is required. Existing trees or shrubs approved by the City for preservation may be counted toward satisfaction of this provision.
    - a) One (1) canopy tree
    - b) One (1) understory/ornamental tree or evergreen tree
    - c) Three (3) shrubs
  - 3. Shrubs shall be planted in groupings, with a minimum of three (3) plants per grouping.
  - 4. Ground cover plants or mulch must fully cover the remainder of the landscaped area.
  - 5. For parking areas containing more than one hundred (100) spaces, the City shall approve plans based upon a review of the following criteria:
    - a) The type and placement of landscaping materials;
    - b) The provision of storm water management facilities;
    - c) The provision of adequate lighting;
    - d) The provision of fire protection and security; and,
    - e) The provision of pedestrian access through and around the site.
- B. Transitional yard. A transitional yard shall be provided anywhere development in the Gateway Overlay District abuts a Residential District in a side or rear yard condition. No transitional yard is required if the district is across a street or alley from the Residential District. The transitional yard shall conform to the following requirements:
  - 1. The transitional yard shall run the entire length of the shared lot line.
  - 2. The transitional yard shall be planted with shrubs to form a continuous screen at least four (4) feet high, or a four (4)-foot-tall solid fence or wall may be substituted.
  - 3. One (1) tree per one hundred (100) linear feet shall be planted within the transitional yard.
  - 4. Ground cover plants or mulch must fully cover the remainder of the landscaped area.
- C. Landscaping requirements around signage. The ground area around the base of a monument or pole sign shall be landscaped with shrubs and ground cover equal to the area of the sign face.
- D. General standards.
  - 1. All planting material shall be of good quality, of species normally grown in western South Dakota, and capable of withstanding environmental site conditions. Selection of plant materials should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, and the slope and contours of the site.
  - 2. All landscaping shall be designed and maintained so as to preserve unobstructed vision of the street and sidewalk at points of access.

3. All landscaping shall be installed in a sound workmanlike manner and according to generally accepted planting procedures.
4. Maintenance of landscaped areas is the ongoing responsibility of the property owner. Required landscaping must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.
5. Adequate irrigation shall be provided to establish and maintain the required landscaping.

**17.14.020 FLOODPLAIN OVERLAY DISTRICT**

The purpose of the Floodplain Overlay District is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to: protect human life and health; minimize expenditure of public money for costly flood control projects; minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; minimize prolonged business interruptions; minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and, ensure that potential buyers are notified that property is in a flood area.

- A. Floodplain zoning. All proposed development in the Floodplain Overlay District, as depicted on the *Official Zoning Map*, shall comply with the *Title 17, Division II. Floodplain Zoning*.

## **CHAPTER 17.16 ADDITIONAL USE & DEVELOPMENT REGULATIONS**

The intent of this chapter is to establish specific standards for new construction, new uses, or substantial improvements of buildings or developments within the City of Belle Fourche. These standards address a number of issues including, but not limited to, the relationship between new development and adjacent properties, pedestrian access, vehicular access, neighborhood character, and open space in order to develop a safe, attractive, and efficient community.

### **17.16.010 ACTIVE GROUND FLOOR USE IN CENTRAL COMMERCIAL DISTRICT**

The ground floor active use standards reinforce the historic nature of the Central Commercial District. Buildings must provide active uses along at least fifty (50) percent of the ground floor that fronts onto a sidewalk. Active uses include, but are not limited to: lobbies, retail, commercial, and office uses. The street-facing building façade must include windows and doors. Active uses do not include residential dwelling units.

### **17.16.020 MANUFACTURED HOMES ON INDIVIDUAL LOTS**

A manufactured home on an individual lot, outside of a manufactured home park, shall comply with the standards listed below.

- A. Manufactured homes on individual lots in the Manufactured Home Residential District.
  - 1. Placement. The manufactured home shall be affixed to the lot by means of a permanent foundation with footings, foundation, or basement structure, and all plumbing, mechanical, and electrical systems meeting the current building codes adopted by the City of Belle Fourche;
  - 2. Age. The manufactured home shall be manufactured within the ten (10) years immediately preceding the date on which it is affixed to the residential lot; and,
  - 3. Dimensions. The manufactured home shall have a minimum width and length of twenty-four (24) feet.
- B. Manufactured homes on individual lots in the Small-Lot Single-Family Residential District. Manufactured homes on individual lots in the Small-Lot Single-Family Residential District shall apply for a conditional use permit.

**17.16.030 MANUFACTURED HOME PARKS**

- A. Permit Required. A building permit shall be required for each manufactured home moved into and out of a manufactured home park.
- B. Development standards. Table 16.1 sets forth the development standards for manufactured home parks.

<b>Table 16.1. Development standards for manufactured home parks</b>		
Manufacture home park lot area, minimum (acres)	5	
Manufactured home space area, minimum (sq ft)	4,000	
Manufactured home space coverage, maximum (%)	50%	
Manufactured home space width, minimum (ft)	40	
Setbacks from manufactured home park boundary		
Front (ft)	25	
Side, interior (ft)	12	
Side, corner (ft)	15	
Rear (ft)	25	
Setbacks from manufactured home space boundary		
	Primary Structure	Accessory Structure
Front (ft)	15	15
Side, interior (ft)	7	5
Rear (ft)	10	5
Building height (ft)	20	

- C. Age. The manufactured home shall be manufactured within the twenty (20) years immediately preceding the date on which it is affixed to the manufactured home space. Any manufactured home that does not meet this age requirement is prohibited.
- D. Securing and skirting. All manufactured homes and accessory structures shall be securely anchored to the ground in a method approved by the Building Official. Manufactured homes, once in their permanent location upon the manufactured home space, shall be fully skirted within forty-five (45) days.
- E. Vehicular access. Safe and convenient vehicular access shall be provided from the abutting public streets. The streets within the manufactured home park shall provide convenient access to each manufactured home space and other facilities on the development site. Vehicular access shall meet the following requirements: closed ends of dead-end streets shall be provided with an emergency vehicle turning area approved by the City of Belle Fourche; and, the manufactured home park shall be provided with two entrances for emergency access.
- F. Streets. Streets shall be constructed and maintained in accordance with the *City of Belle Fourche Design Criteria*.
- G. Common open space. At least four hundred (400) square feet per dwelling unit, excluding dedicated rights-of-way and required setbacks shall be common open space. Private balconies, patios, parking areas, driveways, outdoor storage areas, and indoor recreation or common areas shall not be included in the calculation of open space. Common open space may be configured to be contiguous or dispersed throughout the site as long as each space is at least twenty (20) by twenty (20) feet. Common open space shall be maintained per approved plans.
- H. Utilities. All manufactured home dwellings shall be served by underground utilities in accordance with City requirements.
- I. Pedestrian access. Sidewalks shall be provided as per the *City of Belle Fourche Design Criteria*.
- J. Lighting. Lighting shall be provided as per the *City of Belle Fourche Design Criteria*.



- K. Storm water. Prior to the issuance of a Conditional Use Permit, a storm water plan must be submitted to, and approved by the City of Belle Fourche.
- L. Addresses. Each manufactured home shall have an address number affixed to the home and clearly visible from the street.
- M. Waste container placement. Waste containers serving manufactured home parks shall not be located between the manufactured home park and a public street. Waste containers shall be screened on three sides by a solid wall or fence at least six (6) feet in height.
- N. Non-conforming manufactured home parks. To ensure reasonable opportunity for continued use of manufactured home parks existing prior to the adoption of this ordinance, and therefore, not in compliance with all or some of the development standards required in this section, the parks shall be considered legal non-conforming uses. The following minimum standards shall apply to the placement or relocation of individual manufactured homes and recreational vehicles within non-conforming manufactured home parks:
  1. The placement or relocation of individual manufactured homes in non-conforming manufactured home parks shall be subject to the minimum fire safety separation standards adopted by the City of Belle Fourche.
  2. All manufactured homes and accessory structures shall be securely anchored to the ground in a method approved by the Building Official. Manufactured homes, once in their permanent location upon the manufactured home space, shall be fully skirted within forty-five (45) days.
  3. All manufactured home dwellings shall be served by underground utilities in accordance with City requirements.
  4. The manufactured home dwellings must be built to HUD Code, or meet the *City of Belle Fourche's Mobile Home Standards*.
  5. Each manufactured home shall have an address number affixed to the home and clearly visible from the street.
  6. Recreational vehicles shall be allowed in a non-conforming manufactured home park under the following circumstances: a recreational vehicle may be relocated on an individual manufactured home space that is occupied by a similar unit at the time of adoption of the nonconforming standards; and, the placement of the recreational vehicle complies with the minimum fire safety separation standards adopted by the City of Belle Fourche.
  7. The non-conforming manufactured home park boundaries shall not be expanded nor shall any additional manufactured home spaces be created as a result of these provisions. Any expansion shall meet all provisions of 17.16.030A-M.

**17.16.040 SINGLE-FAMILY ATTACHED DWELLINGS**

- A. Development standards. Table 16.2 sets forth the development standards for single-family attached dwellings.

<b>Table 16.2.</b> <i>Development standards for single-family attached dwellings</i>	
Lot area, minimum (sq ft)	3,000
Lot coverage, maximum (%)	Shall meet zoning district lot coverage requirements.
Lot width, minimum (ft)	25
Setbacks (front, corner, rear, side yard)	Shall meet zoning district setback requirements.
Setbacks (internal lot lines)	None
Building height (ft)	Shall meet zoning district height requirements.

- B. Open space requirements. At least four hundred (400) square feet per dwelling unit, excluding dedicated right-of-ways and required setbacks shall be open space. Parking areas and driveways, outdoor storage areas, and indoor recreation or common areas shall not be included in the calculation of open space. Open space may be contiguous or dispersed throughout the site as long as each space is at least twenty (20) feet by twenty (20) feet.

**17.16.050 MULTI-FAMILY DWELLINGS**

- A. Common open space. At least four hundred (400) square feet per dwelling unit, excluding dedicated right-of-ways and required setbacks shall be common open space. Private balconies, patios, parking areas, driveways, outdoor storage areas, and indoor recreation or common areas shall not be included in the calculation of open space. Common open space may be configured to be contiguous or dispersed throughout the site as long as each space is at least twenty (20) feet by twenty (20) feet. Common open space shall be maintained per approved plans.
- B. Waste container placement. Waste containers serving multi-family dwellings shall not be located between the building and any public street. Waste containers shall be screened on three sides by a solid wall or fence at least six (6) feet in height.

**17.16.060 SEXUALLY-ORIENTED BUSINESSES**

No sexually-oriented business may be located within one-quarter (1/4) mile of a: religious institution; school; residence; Residential District; Central Commercial District; public park or recreation facility; or, sexually-oriented business.

**17.16.070 FAMILY DAY CARES**

Shall meet all requirements in Chapter 5.36 and shall be licensed with the City of Belle Fourche and State of South Dakota.

**17.16.080 CEMETERIES**

- A. Area. Any new cemetery shall be located on a site containing not less than twenty (20) acres of land.
- B. Vehicular access. The cemetery shall not interfere with the development of the street system in the vicinity of the site and shall have direct access to a collector class street or higher.
- C. Setbacks. All structures, including, but not limited to, mausoleums, permanent monuments, or maintenance buildings, as well as grave sites, shall be set back not less than twenty-five (25) feet from any property line.

**17.16.090 WIND ENERGY CONVERSION SYSTEMS**

- A. Required setbacks. A minimum setback of one and one-half (1.5) times the height of the wind energy conversion system shall be maintained between the wind energy conversion system and any property line, overhead utility line, or other tower support base. Height shall be measured from the ground to the rotor hub.
- B. Minimum lot size. In no event shall a wind energy conversion system be installed on a lot less than one (1) acre in size.
- C. Tower height. There shall be not less than twenty-five (25) feet between the lowest arc of the rotors of a wind energy conversion system and the ground, and portion of a structure, or any tree. Wind energy conversion systems shall comply with the following requirements in Table 16.3 with respect to height and location. Height shall be measured from the ground to the rotor hub.

<b>Table 16.3.</b> <i>Tower height requirements for wind energy conversion systems</i>	
Lot Size	Maximum Height
1 or more acres, but less than 5 acres	45 feet
5 or more acres, but less than 10 acres	60 feet
10 or more acres	90 feet

- D. Rotor size/operation. The City shall have the discretion to limit the size of rotors permitted on a wind energy conversion system. The maximum size of the rotors of a wind energy conversion system shall be reviewed upon application for a Conditional Use Permit. In determining the appropriate size for the rotors, the City shall consider such factors as noise, proximity to surrounding residences, safety, and aesthetic issues. All systems shall be equipped with appropriate braking devices or similar protective devices to slow down or stop the rotors if the wind exceeds the capacity of the system.
- E. Noise. No wind energy conversion system shall produce more than sixty (60) decibels of sound measured at the closest point on the closest property line from the base of the system. Information from the manufacturer of the wind energy conversion system shall be submitted with the application for a Conditional Use Permit that ensures that this requirement can be met once the system is operational.
- F. Electromagnetic interference. No wind energy conversion system shall produce electromagnetic interference so as to disrupt transmission such as those from radio, television, or microwave towers. At the time of applying for the Conditional Use Permit, the petitioner must submit information from the manufacturer indicating that, once operational, the wind energy conversion system will not adversely affect transmissions. If necessary, generators and alternators shall be filtered, shielded, or both so as to prevent the emission of radio and television signals.
- G. Tower access. Appropriate safety measures must be undertaken to discourage unauthorized climbing of a wind energy conversion system tower. Appropriate measures shall include one of the following:
  - 1. The construction of a six (6)-foot-tall chain link fence with a locking gate around the tower;
  - 2. The tower shall be constructed so that the lowest climbing access shall be at least twelve (12) feet above the ground; or,
  - 3. A locked anti-climb device shall be installed on the tower.
- H. Warning information. Information related to the maximum power output, nominal voltage and maximum current, and emergency shutdown procedures for the wind energy conversion system shall be posted near the base of the tower in a visible location.
- I. Lighting. Unless required by a more restrictive Federal or State regulation, no lighting shall be installed on a wind energy conversion system.
- J. Tower design. In reviewing the Conditional Use Permit application, the City shall consider the design and color of the tower to ensure that no significant adverse impacts to neighboring property owners, including, but not limited to, infringement or interference with natural and urban view sheds, historic property, major community entryways, parks, schools, churches, playgrounds, or similar public and recreation uses.
- K. Manufacturer warranty/maintenance information. The applicant shall submit a manufacturer's statement documenting that the system has been successfully and safely operated in atmospheric conditions that are similar to the conditions in Belle Fourche. The applicant shall provide a copy of the manufacturer's warranty indicating that the system is warranted against any system failures reasonably expected during severe weather conditions, system specifications including maximum power output, and a maintenance schedule for the system.
- L. Construction standards. Any wind energy conversion system shall be constructed in accordance with all applicable life safety, building, and fire codes. The applicant shall submit plans and specifications that are stamped by a registered engineer. In no event shall a wind energy conversion system be mounted to the roof system of any structure.
- M. Lightning protection. Any wind energy conversion system shall have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system shall effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters, and deep earth grounding.
- N. Utility interconnections. Any interconnection between a wind energy conversion system and an electric utility company shall be allowed only in accordance with all local, State, and Federal regulations including regulations issued by the Public Utilities Commission and Federal Aviation Administration, as well as standards of the applicable electric utility company.
- O. Abandonment/removal. Any wind energy conversion system that has not been regularly used for a period of six (6) months shall be declared abandoned. Upon abandonment of the system, the City may revoke the use

permit and the system shall be removed at the expense of the property owner. The City may determine that the wind energy conversion system has been abandoned if the following criteria apply:

1. The wind energy conversion system has not been operating for a substantial period of time and the owner of the system is unable to provide documentation demonstrating that the system has produced at least twenty-five (25) percent of the power output as stated in the system specifications over the past six (6) months;
2. The wind energy conversion system has fallen into obvious disrepair;
3. The wind energy conversion system is in violation of a local, State, or Federal law and the owner of the system has not taken appropriate actions to remedy the problem.

#### **17.16. 100 WIRELESS TELECOMMUNICATION FACILITIES**

- A. Exemptions. The following are exempt from the municipal ordinance regulating wireless telecommunication facilities:
  1. Ordinary maintenance of existing wireless telecommunication facility and support structures.
  2. Antennas used by residential household solely for broadcast radio and television reception.
  3. Satellite antennas used solely for residential or household purposes.
  4. Carrier on Wheels (COW) placed for a period of not more than one hundred and twenty (120) days at any location within the City after a declaration of an emergency or disaster by the Governor or by the responsible local official.
- B. Wireless telecommunication facilities located on existing structures.
  1. Antennas and accessory equipment may be located on any existing structure, including, but not limited to, buildings, water tanks, utility poles, broadcast towers or any existing support structure in accordance with the requirements of this section.
  2. No wireless telecommunication facility shall be located within thirty (30) inches of any space occupied by or available to the public.
  3. Antennas and accessory equipment may exceed the maximum building height limitations of the zoning district; however, the height of the wireless telecommunication facility shall not extend higher than twelve (12) feet over the height of the building or structure.
  4. Each antenna mounted on existing structures and any accessory equipment shall be of a color that is identical or similar to that of the supporting structure.
- C. New support structures.
  1. Monopoles or replacement poles that will support utility lines as well as a telecommunication facility within utility easements or right-of-ways, must meet the following requirements:
    - a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
    - b) Overhead utility transmission and/or distribution structures must be eighty (80) feet or greater in height.
    - c) The height of the monopole or replacement pole may not exceed by more than thirty (30) feet of the height of the existing utility support structures.
    - d) Monopoles and the accessory equipment associated therewith shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
    - e) Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.
    - f) Monopoles or replacement poles located on public property or within public rights-of-way that will support public facilities or equipment in addition to telecommunication facilities shall be permitted. Examples include, but are not limited to, public communication facilities, athletic field lights, traffic lights, street lights, and other types of utility poles in the public right-of-way.
- D. Design and Aesthetics
  1. Monopoles and Towers
    - a) Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the Common Council, monopoles and towers shall have a galvanized silver or gray finish.

2. Telecommunication facilities or support structures shall not be lighted or marked unless required by the Federal Communications Commission or the Federal Aviation Administration.
  3. Signs located at the telecommunication facility shall be limited to ownership and contact information, Federal Communications Commission antenna registration number, and any other information required by government regulation. Commercial advertising is strictly prohibited.
- E. Setbacks.
1. Unless otherwise stated herein, monopoles and towers shall be setback from all property lines a distance equal to their height measured from the base of the structure to its highest point. Other support structures shall be governed by the setbacks required by the underlying zoning district.
  2. There shall be no setback requirements from dwellings or other structures located on the same lot as the proposed structure.
  3. Unless otherwise stated herein, all accessory equipment shall be setback from all property lines in accordance with the minimum setback requirements of the underlying zoning district.
- F. Height. Any proposed support structure shall be designed to be the minimum height needed to meet the service objectives and shall meet all applicable State and Federal regulations.
- G. Accessory equipment. An equipment building, shelter, or cabinet shall not exceed five hundred and sixty (560) square feet and twelve (12) feet in height.
- H. Safety. Ground-mounted accessory equipment and support structures shall be secured and enclosed with a fence not less than six (6) feet in height; the tower shall be constructed so that the lowest climbing access shall be at least twelve (12) feet above the ground; or, a locked anti-climb device shall be installed on the tower.
- I. Construction standards. Wireless telecommunication facilities shall be constructed in accordance with all applicable life safety, building, and fire codes. The applicant shall submit plans and specifications that are stamped by a registered engineer.
- J. Abandonment and removal. Any wireless telecommunications facility that is not operated for a period of twelve (12) consecutive months shall be considered abandoned. The Common Council may issue a Notice of Abandonment to the owner of the wireless telecommunication facility that it is deemed abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the Notice of Abandonment receipt date. The Common Council shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the wireless telecommunication facility has not been abandoned. If the wireless telecommunication facility is determined to be abandoned, the owner of the system shall remove the facility at the owner's sole expense within three (3) months of the receipt of the Notice of Abandonment. If the owner fails to remove the facility, the Common Council may pursue legal action to have the facility removed at the owner's expense.

#### **17.16.110 VEHICLE SERVICE & REPAIR ESTABLISHMENTS**

- A. Setbacks. There shall be a building setback from all property lines a distance of not less than forty (40) feet. Vehicle service stations and gasoline pumps must be set back at least fifty (50) feet from any Residential District.
- B. Driveways. The minimum distance between the intersection of property lines at a corner lot and the driveway to the vehicle service and repair establishment shall not be less than forty (40) feet.
- C. Curbs. A raised curb, design per City standards, shall be constructed at all street property lines, except at driveway openings. The length of the curb openings shall not exceed thirty (30) feet. When two (2) curb opening are providing access to a single street, they shall be separated by an island with a minimum dimension of twenty-five (25) feet at both the edge of the pavement and the right-of-way line. Curb cuts for driveways shall not be located closer than ten (10) feet to any adjoining property line.
- D. Screening. A six (6)-foot-tall masonry wall or solid fence shall be constructed when a vehicle service and repair establishment lot line abuts a Residential District property line.

### 17.16.120 SELF-SERVICE STORAGE FACILITIES

The self-service storage standards are intended to allow this use in areas that are close to the residential and commercial uses that it serves, while at the same time preventing large sections of commercial streets from being developed with a use that has low activity levels and detracts from the vitality of the area.

- A. Outdoor storage screening. Within Commercial Districts, all goods and property stored outside of a building shall be screened by a six (6)-foot-tall masonry wall or solid fence
- B. Self-service storage facilities located on an arterial street. Any self-service storage facility with frontage on an arterial street must be located behind a retail business.

### 17.16.130 HOME OCCUPATIONS

The intent of the home occupation regulations is to protect neighboring properties from potential adverse impacts of commercial activities within residential dwellings. The home occupation regulations recognize that many types of jobs can be done in a home with little or no effects on the surrounding area. A home occupation shall comply with the following regulations:

- A. Site standards.
  - 1. All commercial activities must occur in completely enclosed structures.
  - 2. Exterior storage or display of goods or equipment is prohibited.
  - 3. The residential dwelling and site must remain residential in appearance and characteristics.
  - 4. Signage must conform to the *Belle Fourche Sign Ordinance*.
- B. Impact standards.
  - 1. Hazardous substances are prohibited, except those intended for household use.
  - 2. No mechanical equipment, other than that ordinarily used within a dwelling unit for household or hobby purposes shall be permissible.
  - 3. There shall not be any offensive noise, smoke, dust, or heat noticeable beyond the premises.
  - 4. There shall not be any outside employees that work on the premises.
  - 5. There shall not be excessive vehicular or pedestrian traffic to the premises. Public access to the home occupation shall be by invitation only and there shall not be more than one customer or client vehicle on or adjacent to the property at the same time. The home occupation shall not generate more than six visits per day from clients or customers and shall be restricted to the hours of 6am to 9pm.
  - 6. Truck deliveries or pick-ups of supplies or products associated with the home occupation are allowed between the hours of 8am and 5pm.
- C. Non-conforming home occupation as a conditional use. If the site and impact standards cannot be met, the home occupation becomes a non-conforming home occupation and must be approved through the conditional use permit process.
- D. Prohibited home occupations. The following home occupations are prohibited:
  - 1. Meat processing and packaging for sale or distribution
  - 2. Home occupations by a lessee/renter without written consent of the property owner
  - 3. Kennels or pet boarding
  - 4. Manufacture or processing of goods, materials, or objects, except dressmaking, arts, and handicrafts where goods are not manufactured or processed as stock for sale or distribution
  - 5. Warehousing of commercial cleaners
  - 6. Sales and repair of motorized vehicles
  - 7. Sales of firearms, explosives, or other weapons that require a State or Federal license to provide such services
  - 8. Tattoo or body piercing parlors

### 17.16.140 DRIVE-THROUGH FACILITIES

The drive-through facilities regulations are intended to reduce potential negative impacts of these facilities on abutting uses; promote safe and efficient on-site vehicle and pedestrian circulation; and, reduce conflicts between queued vehicles and adjacent streets. These regulations apply to new developments, the addition of drive-through facilities to existing developments, and the relocation of an existing drive-through facility.

- A. Stacking lanes and service area descriptions. The stacking lane is the space occupied by vehicles queuing for the service to be provided. The service area is where the service occurs, such as the service window, gas pump, or the area within the building, such as a car wash, where the service occurs.
- B. Setbacks. Service areas and stacking lanes must be set back at least fifty (50) feet from all property lines that abut Residential Districts.
- C. Vehicular access. All driveway entrances, including stacking lane entrances, must be at least fifty (50) feet from an intersection.
- D. Stacking lane standards.
  - 1. Gasoline pumps. A minimum of thirty (30) feet of stacking lane is required between the property line and the nearest gasoline pump.
  - 2. Banks, *kiosks*, ATMs and pharmacies. A minimum of eighty (80) feet of stacking lane is required. A stacking lane is measured from the property line to the service area.
  - 3. Other drive-through facilities. A minimum of one hundred and fifty (150) feet of stacking lane or eighty (80) feet per lane when there is more than one stacking lane is required for all other drive-through facilities. A stacking lane is measured from the property line to the service area.
  - 4. Stacking lane design and layout. Stacking lanes must be designed so that they do not interfere with parking and vehicle circulation.
  - 5. Stacking lanes identified. All stacking lanes must be clearly identified through the use of striping and signage.

### 17.16.150 WINERIES, BREWERIES & DISTILLERIES IN COMMERCIAL DISTRICTS

Wineries, breweries & distilleries that are permitted as a conditional use in Commercial Districts and must meet the following development standards:

- A. Facility size. The total size of the production facility cannot exceed five thousand (5,000) square feet in area; and,
- B. Tasting room. A tasting room for on-site sampling of the product being produced at the facility must be present and open to the public.

### 17.16.160 RECREATIONAL VEHICLE PARKS

The purpose of the recreational vehicle park regulations is to provide adequate sites for temporary parking of recreational vehicles whose occupants are visiting or passing through Belle Fourche; minimize potential adverse impacts between a recreational vehicle park and surrounding land uses; and, provide health and safety standards to protect both the users of the park and the community.

- A. Occupancy. The occupancy of each recreational vehicle site is limited to one recreational vehicle and one automobile or truck. The length of stay is limited to a maximum of one hundred and eighty (180) days in any twelve (12)-month period. No buildings or storage sheds are permitted on the recreational vehicle site.
- B. Department of Health. The recreational vehicle park shall meet all requirements of the State of South Dakota Department of Health.
- C. Site standards.
  - 1. All recreational vehicles, recreational vehicle spaces, office buildings, or service buildings shall be set back from all property lines a minimum of twenty-five (25) feet.
  - 2. A minimum of ten (10) feet of spacing shall be maintained between recreational vehicles.

3. The minimum size of any recreational vehicle space shall be one thousand seven hundred and fifty (1,750) square feet. There shall be no more than 25 recreational vehicle sites per acre.
4. Each recreational vehicle space shall include a parking space for one vehicle.
5. Each recreational vehicle space shall have direct access to a driveway.
6. One refuse collection station shall be provided, with a minimum of one (1) dumpster for each twenty-five (25) recreational vehicle spaces in the park.
7. Interior driveways must meet the requirements of the *City of Belle Fourche Design Criteria*.

### **17.16.170 SWIMMING POOLS**

The regulations set out in this section shall apply to swimming pools.

- A. Private swimming pools. A private swimming pool shall be any pool or open tank not located within a completely enclosed building, and containing or normally capable of containing water to a depth at any point greater than one and one-half (1 ½) feet. Private swimming pools are allowed in any Residential District provided:
  1. The pool is intended and is to be used solely for enjoyment of the occupants of the property on which it is located and their guests.
  2. No swimming pool or part thereof, excluding aprons, walks and equipment rooms, shall protrude into any required front or side yard.
  3. The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties.
- B. Community or club swimming pools. A community or club swimming pool not open to the public shall be any pool constructed by an association of property owners, or by a private club for use and enjoyment by members of the association or club and their families and guests. Community and club swimming pools shall comply with the following conditions and requirements:
  1. The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
  2. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than fifty (50) feet to any property line of the property on which located.
  3. The swimming pool and all of the areas used by the bathers shall be walled or fenced so as to prevent uncontrolled access by children from the street or adjacent properties. The fence or wall shall be not less than five (5) feet in height and maintained in good condition. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition.

### **17.16.180 SCREENING REQUIREMENTS IN COMMERCIAL DISTRICTS**

The screening standards address specific unsightly features that detract from the appearance of commercial areas.

- A. Garbage collection areas. All exterior garbage cans and garbage collection areas, except those located in and accessed from an alley, must be screened from the street and any adjacent properties. Garbage collection areas shall be screened on three sides by a solid wall or fence at least six (6) feet in height.
- B. Mechanical equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting Residential Districts by walls, fences, or vegetation that is tall enough to screen the equipment.

### **17.16.190 ACCESSORY DWELLING UNITS**

The purpose of the accessory dwelling unit (ADU) standards is to allow an independent and affordable housing option for a tenant within a secondary dwelling, either within the primary dwelling, or as a freestanding structure on the same lot. A lot may have no more than one ADU.



- A. Occupancy. The owner of the property must occupy either the primary unit, or the ADU as a permanent and main residence for at least-six (6) months of each calendar year.
- B. Size of accessory dwelling unit. The finished area of the ADU shall be no larger than seventy-five (75) percent of the total ground floor area of the primary unit.
- C. Entrance location. Only one (1) entrance shall be located on a façade that faces a street. If an existing building has more than one (1) street facing entrance, prior to the development of the ADU, then each unit can have a street facing entrance.

**17.16.200 AUTOMOBILE WRECKING AND JUNKYARDS**

- A. Location. The location of any automobile wrecking or junkyard facility shall be no closer than three hundred (300) feet from any Residential District.
- B. Screening. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed eight (8)-foot-tall solid fence or wall, except for driveway areas. Storage between the street and such fence or wall is prohibited. Any fence or wall erected for screening purposes shall be within the buildable lot area and shall be maintained in good condition.

**17.16.210 RECREATIONAL FADS**

A building permit application for recreational fads, including trampoline centers, kart tracks, drive-in theaters, and similar recreational activities, and not specifically covered by these regulations, shall be reviewed by the Planning and Zoning Commission and the governing body.

**17.16.220 KIOSKS**

- A. Size and dimensions. The structure may not exceed one hundred and fifty (150) square feet in area and twelve (12) feet in height and shall be moveable having skids or wheels.
- B. Location. The kiosk shall not block, impede or hinder the flow of traffic, block fire lanes by either the structure or patrons, or cause congestion on or near any lot access approaches. The kiosk shall be located on a paved surface. The structure shall not be placed closer than ten (10) feet from the front property line and five (5) feet from a side or rear property line. The structure shall not be placed in the right-of-way of any street.

## CHAPTER 17.18 TEMPORARY USE PERMITS

Temporary uses typically involve short-term uses of property that are not otherwise included in any site plan or certificate of occupancy. Factors such as zoning, location, and duration of the temporary use are considered with approving a temporary use permit. Application for a temporary use permit shall be made to the Building Official.

**17.18.010 OUTDOOR PUBLIC GATHERINGS.** This category of temporary uses includes: circus, carnival, fair or similar activities; festivals, benefits, fund-raising events, or similar uses that typically attract mass audiences; temporary vendor stands, selling items such as seasonal agricultural or horticultural products, like Christmas trees, clothes or textiles, or fireworks; outdoor art or craft shows; farmers markets; and, outdoor special sales, such as a parking lot sale or sidewalk sale. The following regulations apply to this category of temporary uses:

- A. Duration. Permitted in non-Residential Districts for a period of not longer than thirty (30) days within a calendar year.
- B. Setbacks. Use shall be set back from all Residential Districts a minimum of fifty (50) feet.
- C. Outdoor public gatherings as a conditional use. If the temporary use cannot meet the criteria above, the applicant may apply for a conditional use permit.

### 17.18.020 MOBILE FOOD ESTABLISHMENTS

- A. Duration. Permitted in non-Residential Districts for a period of not longer than one (1) year.
- B. Setbacks. Use shall be set back from all Residential Districts a minimum of fifty (50) feet.
- C. Department of Health. The mobile food establishment shall be licensed by the Department of Health.
- D. Signs. A mobile food establishment is limited to signs attached to the exterior of the mobile food establishments. The signs shall be secured and mounted flat against the mobile food establishment; and may not project more than six (6) inches from the exterior of the mobile food establishment.
- E. Litter and debris. The permit holder shall keep the area around the mobile food establishment clear of litter and debris at all times.
- F. Utility connections. Permanent water, wastewater, or electrical connections are prohibited.
- G. Hours of operation. A mobile food establishment may operate between the hours of 6am and 10pm.
- H. Mobile food establishments as a conditional use. If the temporary use cannot meet the criteria above, the applicant can apply for a conditional use permit.

### 17.18.030 ON-SITE CONSTRUCTION FIELD OFFICES AND SALES/LEASE OFFICES FOR MODEL HOMES, MANUFACTURED HOMES, OR APARTMENTS

- A. Duration. Permitted in all Districts, for a period of not longer than one (1) year
- B. Permit extensions. The permit may be extended by the Building Official, but not beyond three (3) years.

## CHAPTER 17.20 PARKING AND LOADING

This chapter establishes the standards for the amount, location, and development of motor vehicle parking, and standards for on-site loading areas.

### 17.20.010 APPLICABILITY

The regulations in this chapter apply to all parking and loading areas in all zoning districts, except the Central Commercial District. Any new construction, new uses, or substantial improvements of buildings or developments within the City of Belle Fourche shall comply with this chapter.

### 17.20.020 LOCATION OF PARKING AREAS

Off-street parking for any use shall be located on either the same lot or within two hundred (200) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot, without crossing an arterial street. However, religious institutions may establish joint parking facilities not to exceed fifty (50) percent of the required spaces, with institutions and agencies that do not have a time conflict in parking demand. The joint parking facilities shall be located no further than four hundred (400) feet from the religious institution.

### 17.20.030 NUMBER OF PARKING SPACES REQUIRED

Table 20-1 identifies the number of off-street parking spaces required by use. The Planning and Zoning Commission shall issue a determination of the required number of parking spaces for uses not identified in Table 20-1.

<b>Table 20-1. Off-street parking spaces required</b>	
<b>USE</b>	<b>NUMBER OF SPACES REQUIRED</b>
Assembly (auditorium, stadium, religious institution, etc.)	1 space per each 3 seats (maximum capacity)
Hospitals and nursing homes	1 spaces per each 4 beds; and 1 space for each 2 employees
Medical office	3 spaces per staff doctor; and 1 space for each employee
Lodging	1 space for each rental unit plus 1 space for each 2 employees at maximum employment on a single shift; plus 1 space for each company vehicle regularly parked on the premises. Accessory uses (restaurants, etc.) shall satisfy their parking requirement separately according to this table.
Industrial uses generally	1 space for each two employees at maximum employment on a single shift; and 1 space for each company vehicle regularly parked on the premises
Single-family detached and attached residential, manufactured home, and duplex	2 spaces per dwelling unit
Residential: All other, including ADUs	1 spaces per dwelling unit
Commercial and civic uses generally	3 spaces per 1,000 square feet of total building area
Schools	<i>K through 9:</i> 1 space for each 15 students at maximum capacity <i>10 through 12:</i> 1 space for each 4 students at maximum capacity <i>College and technical schools:</i> 1 space for each 2 students at maximum capacity
Restaurants and bars	1 space for each 4 seats of seating capacity; and 1 space per each 2 employees at maximum employment on a single shift
Clubs or lodges	1 per 3 members based on the design capacity of the facility
Central Commercial District	No off-street parking required

**17.20.040 RESIDENTIAL PARKING AREAS**

Residential off-street parking spaces shall consist of a parking lot, driveway, garage, or combination thereof and shall be located on the lot they are intended to serve.

**17.20.050 SHARED PARKING FACILITIES**

Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

**17.20.060 STORAGE OF VEHICLES AND DISPLAY OF MERCHANDISE**

The required off-street parking shall be for occupants, employees, visitors, and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale, or the repair of vehicles within such parking areas is prohibited. Company cars, trucks, tractors, or trailers normally stored at a work site shall be provided with off-street parking spaces in an area reserved for the use.

**17.20.070 LOADING AND UNLOADING REQUIREMENTS**

In all districts, except the Central Commercial District, and on the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage of warehouse goods, display, a department store, a wholesale store, market, a hotel, a hospital, or other uses similarly involving the receipt or distributions of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading in order to avoid undue interference with public use of the streets or alleys.

- A. Spaces required. Off-street loading and unloading spaces shall be provided as follows:
  1. One (1) off-street loading and unloading space shall be provided for buildings up to and including twenty thousand (20,000) square feet of floor area, plus one (1) additional off-street loading and unloading space for each additional twenty thousand (20,000) square feet of floor area up to and including one hundred thousand (100,000) square feet.
  2. There shall be provided an additional off-street loading and unloading space for each additional forty thousand (40,000) square feet of floor area in excess over one hundred thousand (100,000) square feet.
  3. Where trailer trucks are involved, such loading and unloading space shall be an area twelve (12) feet by forty (40) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.
  4. Family day cares and day care centers shall maintain at least one (1) off-street loading and unloading space.
  5. All areas devoted to permanent off-street loading and unloading as required under this chapter shall be of a seal-surface construction and maintained in such a manner that no dust will result from continuous use.

## CHAPTER 17.22 EXCEPTIONS

The standards in this chapter are intended to provide exceptions to specific zoning district regulations.

### 17.22.010 STRUCTURES PERMITTED IN REQUIRED YARDS

- A. Awnings and canopies. If the awning or canopy is erected over any sidewalk there must be at least nine (9) feet of clearance between the sidewalk and the lowest point of the awning/canopy. The awning/canopy may extend a distance equal to two-thirds (2/3) the width of the sidewalk, but in no case exceeding a distance of ten (10) feet;
- B. Bay windows and chimneys not to exceed two (2) feet;
- C. Driveways, curbs, sidewalks, and steps. Non-enclosed, uncovered steps or stairs to a dwelling shall not extend more than ten (10) feet into front and rear yards and two (2) feet into side yards;
- D. Fences, walls, and hedges;
- E. Flagpoles;
- F. Non-permanent garbage disposal equipment;
- G. Landscape features, planting boxes, and recreational equipment;
- H. Overhanging roof, eave, gutter, cornice, or other architectural features not to exceed two (2) feet into any required setback;
- I. Open fire escapes may extend into any required yard not more than six (6) feet and not encroach onto any adjoining properties;
- J. Required parking spaces;
- K. Signage;
- L. Terraces (open/covered) and porches (covered/uncovered) not to exceed six (6) feet into front and rear yards. Open terraces and uncovered porches not to exceed ten (10) feet into front and rear yards;
- M. Trees, shrubs, flowers, and plants;
- N. ADA ramps.

### 17.22.020 VISION OBSTRUCTIONS

The following regulations provide for the maximum safety of persons using sidewalks and streets.

- A. Vision obstruction—corner lots. On any corner lot where a front and side yard is required, no wall, fence, sign, structure, or any plant growth which obstructs sight lines at elevations between two and one-half (2 ½) feet and ten (10) feet above the crown of the adjacent roadway shall be placed or maintained within a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five (25) feet along the front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersections.
- B. Vision obstruction—interior lots. In any required front yard, no fence, wall, hedge or yard ornament shall be permitted which materially impedes vision across such yard above the height of three and one-half (3 ½) feet.

### 17.22.030 SETBACKS

- A. Setback exceptions—average setback more than twenty-five (25) feet. In Residential Districts, if twenty-five (25) percent or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings all of which have observed an average setback line of greater than twenty five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback, so established by the existing buildings, but this regulation shall not require a front yard of a greater depth than fifty (50) feet.
- B. Setback exceptions—average setback less than twenty-five (25) feet. In a Residential District, if fifty (50) percent or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings all of which have observed an average setback of less than twenty-five (25) feet and no building line

varies more than five (5) feet from this average setback line, then a building may be erected observing the average setback line so established.

- C. Front yard setback requirements—narrow street. Where the dedicated street right-of-way is less than fifty (50) feet, the depth of the front yard shall be measured starting at a point twenty-five (25) feet from the centerline of the street easement.
- D. Accessory buildings in the Rural Residential and Agricultural District. Accessory buildings may extend into the front yard of lots greater than two (2) acres in the Rural Residential District and Agricultural District if the following requirements are met: the building shall be a minimum of three hundred (300) square feet in area; the building shall be a maximum of one thousand (1,000) square feet in area; the building shall be a permanent structure; and, the building shall have an exterior that is aesthetically similar in texture and appearance, and is compatible with the exterior of the dwelling on the same site. However, no accessory structure may extend into the required front yard setback of the primary structure.

**17.22.040 MULTIPLE PRINCIPAL STRUCTURES ON ONE LOT IN THE HIGHWAY COMMERCIAL, LIGHT INDUSTRIAL, AND HEAVY INDUSTRIAL DISTRICTS.** No more than one principal structure shall be constructed or moved onto any one lot of land unless that lot could be subdivided so that each principal structure and accessory structures thereto would be on a subdivided lot in which in all respects would conform to the minimum dimensional requirements for the particular zone where situated.

**17.22.050 HEIGHT**

The following structures or parts thereof are exempt from the height limitations set forth in this ordinance:

- A. Agricultural buildings, including barns, silos, and windmills, but not dwellings;
- B. Chimneys, smokestacks, penthouses, spires, flagpoles, ventilators, skylights, derricks, conveyors, and cooling towers;
- C. Radio and television antennae and towers, observation towers, and power transmission towers;
- D. Water tanks and standpipes;
- E. Other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the district in which they are located, provided that they are not used for human occupancy.
- F. Public buildings. Churches, schools, hospitals, sanatoriums, and other public buildings may exceed the height limitations of the district if the minimum depth of the required front, side, and rear setbacks is increased one (1) foot for each two (2) feet by which the height of such public structure exceeds the prescribed height limit.

## **CHAPTER 17.24 ADMINISTRATION AND ENFORCEMENT**

### **17.24.010 ADMINISTRATIVE OFFICIAL**

An administrative official designated by the Common Council, shall administer and enforce this Title. He/she may be provided with the assistance of such other persons as the Common Council may deem necessary for the successful enforcement of this Title.

### **17.24.020 WRITTEN NOTICE OF CORRECTIVE ACTION**

Should the administrative official find that any of the provisions of this Title are being violated, they shall notify the owner or occupant in writing of the nature of the violation and ordering the action required to correct the violation. They shall order discontinuance of illegal use of land; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of illegal work being done; or any other action authorized by this Title to ensure compliance with or to prevent violations of its provisions.

### **17.24.030 BUILDING PERMITS REQUIRED**

No building or other structure shall be erected, constructed, enlarged, altered, repaired, improved, moved or demolished without a permit thereof, issued by the City Engineer or designee.

### **17.24.040 GOVERNING BODY ACTING AS BOARD OF ADJUSTMENT**

In lieu of appointing the Board of Adjustment the Common Council, having adopted and having in effect a zoning ordinance, will act as and perform all the duties and exercise the powers of a Board of Adjustment as provided by South Dakota law.

### **17.24.050 MEETINGS OF COMMON COUNCIL ACTING AS BOARD OF ADJUSTMENT**

All meetings of the Common Council, acting as Board of Adjustment, shall be open to the public. Minutes of proceedings showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact, and records of its examinations and other official actions, shall all be immediately filed in the office of the City Finance Officer and shall be a public record.

### **17.24.060 POWERS OF THE COMMON COUNCIL ACTING AS BOARD OF ADJUSTMENT**

The Common Council may:

1. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this title or of any ordinance adopted pursuant to this title;
2. Authorize such variance from terms of the ordinance not contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance is observed and substantial justice done; and
3. Hear and determine conditional uses as authorized by the zoning ordinance. The uses shall be determined by an affirmative vote of the present and voting members of the board of adjustment at a percentage specifically set forth in the zoning ordinance.

**17.24.070 APPEAL PROCEDURES TO THE COMMON COUNCIL**

1. The Common Council may adopt rules to implement the provisions of this Title.
2. Appeals to the Common Council may be taken by any person aggrieved or by any officer, department or board of the municipality affected by any decision of the Administrative Official. Such appeal must be filed within ten (10) days of the decision from which the appeal is taken by filing with the Administrative Official and with the Common Council, a notice of appeal specifying the grounds thereof. The Administrative Official from whom the appeal is taken shall forthwith transmit to the Common Council all the papers constituting the record upon which the action appealed from was taken.
3. In the case of all appeals, the Common Council shall call upon the Planning and Zoning Commission for all information pertinent to, and their recommendation which shall be forwarded as a preliminary report to the Common Council.

**17.24.080 STAY OF PROCEEDINGS**

The filing of an appeal to the Common Council stays all proceedings in the action appealed from, unless the Administrative Official from whom the appeal is taken files a certificate that by reason of facts stated in the certificate a stay would cause imminent apparel to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Common Council or by a Court of record, upon application and notice to the Administrative Official from whom the appeal is taken and upon due cause shown.

**17.24.090 NOTICE OF HEARING**

The Common Council shall hold at least one public hearing upon an appeal. Notice of the time and place of hearing shall be given at least ten (10) days in advance by publication in the legal newspaper of the municipality and due notice shall be given to the parties in interest. The Common Council shall decide the appeal within sixty (60) days. Any party may appear at the hearing in person or by agent or by attorney.

**17.24.100 DECISIONS OF COMMON COUNCIL**

In exercising the powers as to appeals, the Common Council may, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Administrative Official from whom the appeal is taken. As to all other decisions, the Common Council may make initial determinations as provided state law and applicable zoning ordinance.

**17.24.110 VOTE REQUIRED**

The concurring vote of at least two thirds of the members of the Common Council acting as the Board of Adjustment is required to reverse any order, requirement, decision or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which the Board of Adjustment is required to pass under any ordinance, except as to conditional uses set forth in BF Ord. ch. 17. 30 or to effect any variation in an ordinance.

**17.24.120 PLANNING AND ZONING COMMISSION**

The Planning and Zoning Commission shall:

1. Recommend such rules of procedure as are necessary to the performance of its functions hereunder.
2. Review and recommend to the Common Council all actions necessary as to building permits, variances, use permits, appeals and amendments pertaining to this Title.
3. Perform such other duties as are set forth in this Title or as may be requested by the Common Council.



**17.24.130 COURT REVIEW OF COMMON COUNCIL'S DECISION MADE WHILE ACTING AS BOARD OF ADJUSTMENT**

Any person, firm, or corporation aggrieved by any decision of the Common Council acting as a Board of Adjustment may present to a court of competent jurisdiction a petition fully verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality. Such petition shall be presented to the court within thirty (30) days after the decision of the Common Council acting as a Board of Adjustment.

## **CHAPTER 17.26 NON-CONFORMING STRUCTURES AND USES**

A legally non-conforming building, structure or use existing at the time of the adoption of this Title may be continued, maintained, and repaired except as otherwise provided in this section.

### **17.26.010 CONTINUANCE OF NON-CONFORMING USES**

Any use that is legal immediately prior to the adoption of this Title, but does not conform to this Title upon its adoption, becomes a legal non-conforming use. A non-conforming use may continue unless it is discontinued for a period of one (1) year. In such case, the use shall not be reestablished unless the Common Council approves such action. A non-conforming use, if converted to a conforming use, shall not be changed back to a non-conforming use.

### **17.26.020 ALTERATION OR ENLARGEMENT OF NON-CONFORMING BUILDING, STRUCTURES OR USES**

A legal non-conforming building, structure or use shall not be added to or enlarged in any manner unless such addition or enlargement is approved by the Common Council.

### **17.26.030 DAMAGE TO NON-CONFORMING BUILDINGS AND STRUCTURES**

A building that by reason of the passage of this Title has become legally non-conforming, and thereafter is damaged by fire, explosion, act of God, or the public enemy to the extent of more than fifty (50) percent of its value, shall not be restored except in conformity with the regulations of the zoning district in which it is located. When damaged by less than fifty (50) percent of its value, a legally non-conforming building may be repaired or reconstructed up to its original size, and used as before the time of damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage.

### **17.26.040 NON-CONFORMING LOTS OF RECORD**

Where a lot, parcel or tract of land is in legal existence on the effective date of this ordinance, and such lot is smaller than the minimum lot size required for the zoning district, a non-conforming lot of record shall be deemed to exist. For the purpose of establishing the legal existence of a lot, parcel or tract of land, evidence shall be presented that the lot, parcel or tract was legally created by plat, recorded deed, recorded warranty deed, recorded contract of sale or purchase agreement executed prior to the effective date of this ordinance. Any permitted use may be constructed, altered or enlarged on a non-conforming lot of record so long as all other development standards are met.

### **17.26.050 APPROVED PROJECTS**

Use permits, variances, and planned residential developments any of which are valid on upon adoption of this ordinance, shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed. No provision of this Title shall require any change in the plans, construction, or designated use of any structure for which a permit has been issued prior to the date of adoption of this ordinance.

## **CHAPTER 17.28 VARIANCES**

### **17.28.010 PURPOSE**

The purpose of a variance is to modify the strict application of the specific requirements of this Title in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, when such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of their land. A variance shall be granted only where necessary to overcome some obstacle which is preventing an owner from using their land as this Title intended.

### **17.28.020 APPLICATION**

When application is made for a building permit and the proposed building or structure does not conform to the planning and zoning ordinance requirements, the property owner shall be advised that application for a variance may be made to the Planning and Zoning Commission. A variance application shall include:

- A. Reason variance is requested;
- B. Legal description and street address of the property where the building or structure will be located;
- C. Line diagram of proposed building or structure showing area dimensions and location on land;
- D. The application shall be made in sufficient time prior to a regular Planning and Zoning Commission meeting to allow time for publication of required notices in the official newspaper.

### **17.28.030 PUBLIC HEARINGS**

Upon receipt of an application and fee, the Planning and Zoning Commission shall hold a public hearing, having first given ten (10) days notice. One notice of the time and place of such hearing shall be published in the official newspaper of the City. In addition, a sign noting the fact that an application for a variance is pending shall be posted on the site not less than ten (10) days before the public hearing before the Planning and Zoning Commission. The sign shall be maintained on the site until the Common Council has taken action on the request or the application is withdrawn. Approved signs shall be secured from the Planning Department which shall require a reasonable deposit sufficient to cover the cost of replacement of such sign or signs and which shall determine the number and location of the sign or signs to be posted on the site addressed in the application for the variance. The Commission shall consider and within thirty (30) days recommend approval or denial to the Common Council. The recommendation shall then be scheduled for public hearing at a meeting of the Common Council. At least ten (10) days prior to the public hearing, one notice of the time and place of such hearing shall be published in the official newspaper of the City. The Common Council, acting as the Board of Adjustment pursuant to SDCL 11-4-24, shall consider and within thirty (30) days grant approval or denial of the variance request.

### **17.28.040 VOTE REQUIRED TO GRANT A VARIANCE**

The concurring vote at least two-thirds of the members of the Common Council shall be required to grant any variance request.

### **17.28.050 APPROVAL CRITERIA**

In granting a variance, the Planning and Zoning Commission and the Common Council must determine that the following criteria are met:

1. Special circumstances exist on the land—i.e., an exceptionally narrow lot, steep topography, or irregularly shaped lot;

2. The proposed use is either a permitted or conditional use in the zoning district;
3. Strict application of the zoning ordinance would deprive the applicant of all reasonable economic use of the land;
4. Granting the variance is the minimum modification necessary to allow the reasonable use of the site;
5. Granting the variance will not compromise the purpose of this Title nor that of the zoning district in which the property is located; and,
6. Granting the variance is in harmony with the general purposes and intent of this Title and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the Belle Fourche Comprehensive Plan.

**17.28.060 BURDEN OF PROOF**

The person requesting the variance has the burden of showing:

- A. That granting the variance will not be contrary to the public interest;
- B. That the literal enforcement of this Title will result in unnecessary hardship;
- C. That by granting the variance contrary to the provisions of this Division, the spirit of this Title will be observed; and
- D. That by granting the variance, substantial justice will be done.

**17.28.070 TIME LIMIT**

A variance shall expire unless acted upon by the original applicant within one (1) year of the date the variance was granted.

## **CHAPTER 17.30 CONDITIONAL USE PERMITS**

### **17.30.010 PURPOSE**

A conditional use is any use that due to certain special characteristics related to its operation, may be allowed in a zoning district after evaluation and recommendation by the Planning and Zoning Commission and approval by the Common Council. The conditional use review process provides an opportunity to allow the use, but impose mitigation measures to address identified concerns, or deny the use if the concerns cannot be resolved.

### **17.30.020 APPLICATION**

An application shall be filed with the Planning and Zoning Commission for review. The application shall show the location for intended use of the site and such other information as the Planning and Zoning Commission deems pertinent to the application.

### **17.30.030 PUBLIC HEARINGS**

Upon receipt of an application and fee, the Planning and Zoning Commission shall give a ten (10)-day notification of a public hearing. One notice of time and place of such hearing shall be published in the official newspaper of the City. In addition, a sign noting the fact that an application for a conditional use is pending shall be posted on the site not less than ten (10) days before the public hearing before the Planning and Zoning Commission. The sign shall be maintained on the site until the Common Council has taken action on the request or the application is withdrawn. Approved signs shall be secured from the Planning Department who shall require a reasonable deposit sufficient to cover the cost of replacement of such sign or signs and who shall determine the number and location of the sign or signs to be posted on the site addressed in the application for the conditional use. The recommendation shall then be scheduled for public hearing at a meeting of the Common Council. At least ten (10) days prior to the public hearing, one notice of the time and place of such hearing shall be published in the official newspaper of the City. Applications for conditional use permits shall be decided within forty-five (45) days of the date of application.

### **17.30.040 APPROVAL CRITERIA**

In approving a conditional use, the Planning and Zoning Commission and the Common Council shall determine that all of the following criteria are met:

- A. Compatibility
  - 1. The proposed use is consistent with the land uses in the area and the purpose of the zoning district;
  - 2. The proposed use will not conflict with surrounding land uses and will not create nuisances for neighboring land owners; and,
  - 3. The proposed use will not negatively impact environmentally sensitive areas on or near the site.
  
- B. Services
  - 1. The existing transportation system is capable of supporting the proposed use;
  - 2. The proposed water, wastewater, and storm water plans adequately accommodate the proposed use and meet the applicable requirements of the City of Belle Fourche; and,
  - 3. Public services for law enforcement, fire protection, and emergency management are capable of serving the proposed use.
  
- C. Comprehensive Plan
  - 1. The proposal is consistent with the goals identified in the Belle Fourche Comprehensive Plan.

**17.30.050 CONDITIONS OF APPROVAL**

The Planning and Zoning Commission may recommend conditions of approval, and the Common Council may attach conditions of approval to conditional use permits. However, conditions may be applied only to ensure that proposal will conform to the applicable approval criteria, or to ensure the enforcement of other regulations, procedures, or laws.

**17.30.060 DENIAL WITH REASON**

In recommending denial to the Common Council, the Planning and Zoning Commission shall state the reasons for the denial.

**17.30.070 PUBLIC HEARING BEFORE COMMON COUNCIL**

The recommendation shall then be scheduled for public hearing at a meeting of the Common Council. At least ten (10) days prior to the public hearing, one notice of the time and place of such hearing shall be published in the official newspaper of the City. The Common Council, acting as the Board of Adjustment, shall consider and grant approval or denial of the conditional use permit. The concurring vote of at least two-thirds (2/3) of the members of the Common Council shall be necessary to effect any conditional use permit.

**17.30.080 TIME LIMIT & LOSS OF CONDITIONAL USE STATUS**

If an approved conditional use permit is not acted upon by the original applicant within one (1) year of the date of approval, the conditional use permit shall expire. If an approved conditional use is discontinued for a period of one (1) year, the conditional use rights are lost. If a conditional use ceases operations, even if the structure or materials related to the use remain, the use has been discontinued. Any conditional use proposing to locate at the site after that time must file a new conditional use application.

**17.30.090 REVOCATION OF CONDITIONAL USE**

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

## **CHAPTER 17.32 AMENDMENTS**

The regulations, restrictions, boundaries, and options set forth in this Title may be amended, supplemented, revised or repealed from time to time as conditions warrant, subject to the following conditions set out in this chapter. Errors or oversights as may be found in the Title as originally adopted shall be corrected under the normal amendment procedure.

### **17.32.010 PUBLIC HEARING**

Upon receipt of the application and fee, the Planning and Zoning Commission shall schedule a public hearing upon the proposed amendment having first given one notice ten (10) days prior to the date of such hearing by publication in the official newspaper of the City of the time and place when and where all persons interested shall be entitled to appear. In addition, for amendments to the Zoning Map, a sign noting the fact that an application for a zoning amendment is pending shall be posted on the site not less than ten (10) days before the public hearing before the Planning and Zoning Commission. The sign shall be maintained on the site until the Common Council has taken action on the request or the application is withdrawn. Approved signs shall be secured from the Planning Department who shall require a reasonable deposit sufficient to cover the cost of replacement of such sign or signs and who shall determine the number and location of the sign or signs to be posted on the site addressed in the application for the zoning amendment. The Planning and Zoning Commission shall consider all information presented; the site of the property which they may inspect; the recommendations of other official bodies; and the standards of this Title and shall, within thirty (30) days, recommend approval or disapproval in their preliminary report to the Common Council.

Upon receipt of the preliminary report and recommendation to approve or disapprove amendments to the Belle Fourche zoning ordinance from the Planning and Zoning Commission, the Common Council shall hold a public hearing giving ten (10) days prior notice of such hearing by publication in the official newspaper, which shall include the time and place when and where all persons interested may appear before the Council. Following the hearing, the Common Council may refuse or adopt with or without amendment, the ordinance.

### **17.32.020 TIME LIMIT AND NOTIFICATION**

All proposed amendments shall be decided by the Common Council within sixty (60) days of the public hearing.

### **17.32.030 AMENDMENT APPROVAL CRITERIA**

- A. Text or Map Amendments. The following conditions shall be met for all amendments:
1. The proposed amendment shall be necessary because of substantially changed or changing conditions of the area and districts affected, or in the City of Belle Fourche generally.
  2. The proposed amendment shall be consistent with the intent and purposes of this ordinance.
  3. The proposed amendment shall not adversely affect any other part of the City of Belle Fourche, nor shall any direct or indirect adverse effects result from such amendment.
  4. The proposed amendment shall be consistent with and not in conflict with the Comprehensive Plan of Belle Fourche including any of its elements, Major Street Plan, Current Land Use Plan, and others.

**CHAPTER 17.34 FEES**

Fees shall be paid at the time an application is made for a variance, temporary use permits, conditional use permit, or amendment. The fees shall be set by resolution of the Common Council.



**CHAPTER 17.36 CERTIFICATE OF OCCUPANCY FOR NEW, ALTERED OR NONCONFORMING USES**

It shall be unlawful to use or occupy or permit the use or occupancy of any building, premises, or land use, or part thereof, erected, changed, converted, wholly or partly altered or enlarged in use or structure until a certificate of occupancy shall have been issued by the Building Official, or designee, stating that the use and construction of the building and/or land conforms to all requirements of the Belle Fourche zoning ordinance, its amendments and adjuncts.

**CHAPTER 17.38 PENALTIES**

Any person found guilty of violating any of the sections of this chapter shall, upon conviction, be subject to punishment under the general penalty provisions of Chapter 1.20 of the Belle Fourche Municipal Code.

## CHAPTER 17.40 DEFINITIONS

### 17.40.010 GRAMMATICAL CONSTRUCTION

For the purposes of this Title and in order to carry out the provisions and intentions as set forth herein, certain words, terms and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tenses; words in the singular number include the plural and words in the plural number include the singular; the word "person" includes a firm, partnership or corporation as well as an individual; the word "lot" includes the word "plot" or "parcel"; the word "building" includes the word "structure"; the term "shall" is always mandatory and not discretionary; the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

### 17.40.020 DEFINITIONS

The words, terms and phrases set out in this chapter are defined and shall be interpreted as such throughout this Title. Terms not herein defined shall have the meaning customarily assigned to them.

**ACCESSORY DWELLING UNIT:** A smaller, secondary dwelling unit on the same lot, or within a detached house or manufactured home. The unit includes its own independent living facilities with provisions for sleeping, cooking, sanitation, designed for residential occupancy independent of the primary dwelling unit.

**ACCESSORY STRUCTURE:** A structure of secondary importance or function on a site. In general, the primary use of the site is not carried out in an accessory structure.

**ACCESSORY USE:** A use or activity that is customarily incidental to the principal use established on the same site; subordinate to and serves such principal use; subordinate in area, extent and purpose to such principal use; and, contributes to the comfort, convenience, or necessity of users of such principal use.

**ADMINISTRATIVE OFFICIAL:** The City Engineer or his/her designee.

**AGRICULTURAL USES:** Agricultural uses consist of activities that raise, produce, or keep plants or animals. Concentrated Animal Feeding Operations are not included in this definition. Examples include: breeding or raising of cattle, fowl, or other animals; dairy farms; stables; farming, forestry, and plant nurseries. Accessory uses include: offices and support housing.

**AGRICULTURAL SALES & SERVICE:** Services that directly support the agricultural industry. Examples include: meat lockers; farm implement and machinery sales and service; grain terminals; veterinary facilities; stables; riding academies; and animal boarding facilities. Accessory uses include: storage of goods; offices; and parking areas.

**AIRPORT:** The use of a site for provision of landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, or rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities. Accessory uses include: offices; restaurants; concessions; storage of goods; retail stores; vehicle rentals; and parking lots and garages.

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

**ALTERATIONS:** A change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another. Alteration does not include normal maintenance and repair.

**AMUSEMENT AND RECREATION ESTABLISHMENTS:** Businesses whose primary function is entertainment. Examples include: theaters; billiards halls; bowling alleys; miniature golf; and, game arcades. Accessory uses include: storage of goods; concessions; restaurants; bars; and parking areas.

**APPLICANT:** The person or firm who applies for a permit. The applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, attorney, consultant, engineer, or architect.

**APPLICANT'S AGENT:** A person or firm representing the applicant. The applicant's agent can be a builder, developer, attorney, consultant, engineer, or architect.

**ATHLETIC FIELDS:** An open field used for athletic events. Examples include: soccer fields, baseball and softball diamonds; volleyball courts; basketball courts; and tennis courts. Accessory uses include: parking areas; concessions; storage facilities; and maintenance facilities.

**AREA, BUILDING:** The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

**AUCTION HOUSE:** An enclosed establishment for the temporary storage and offering by an auctioneer of qualified property that is offered or sold to the highest bidder.

**AUTOMOBILE WRECKING AND JUNK YARDS:** The use of a site for the storage, sale, dismantling or other processing of used automobiles or other waste materials that are not intended for re-use in their original forms.

**AVERAGE GROUND ELEVATION:** The elevation of the mean finished ground surface at the front wall of a structure.

**BAR:** An establishment that alcoholic beverage service as the predominant activity, where food service is secondary as evidenced by such things as extended hours after a full service food menu is available, or a very limited food service menu. Examples include: taverns; and nightclubs. Accessory uses include: restaurants; billiard halls; game arcades; and, music or theater performance.

**BASE ZONING DISTRICT:** A base zone identifies the uses allowed on a property and the development regulations that apply to the property.

**BASEMENT:** A story partly underground but having at least one-half (1/2) of its height below the average level of the adjoining ground. A basement shall be counted as a one-half (1/2) story.

**BASIC UTILITIES & SERVICES:** Infrastructure services that provide access, power, water, sewage service, storm water facilities, and telecommunication facilities. Basic utilities that service a development site are accessory uses to the primary use being served. Basic utilities and services generally do not have employees at the site. Examples include: roads, sidewalks, alleys; easements; water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; storm water facilities and conveyance systems; cable and internet systems; and telephone exchanges. Accessory uses include: control, monitoring, data and transmission equipment.

**BED AND BREAKFAST:** The use of a residential structure to provide rooms for temporary lodging for overnight guests on a paying basis. The owners of the said residential structure reside within such structure, or on the same site.

**BOARD OF ADJUSTMENT:** The Zoning Board of Adjustment for the City of Belle Fourche, South Dakota. The governing body shall act as and perform all duties and exercise the powers of the Board of Adjustment.

**BREWERY:** An establishment where malt liquors or fermented malt beverages are manufactured.

**BUILDABLE LOT AREA:** That area of a lot bounded by the required front, side, and rear setbacks.

**BUILDING:** Any enclosed structure intended for shelter, housing or enclosure of persons, animals, or chattel.

**BUILDING COVERAGE:** The area that is covered by buildings and other roofed structures.

**BUILDING HEIGHT:** The vertical distance measured from the average ground elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel.

**BUILDING OFFICIAL:** The authorized representative appointed by the governing body to issue building and occupancy permits.

**BUILDING MATERIAL SALES:** The retailing or rental of building supplies or equipment. Examples include: lumber yards; tool and equipment sales or rental establishments; and, building contractors' yards. Accessory uses include: offices; storage of goods; and parking areas.

**BUILDING, PRIMARY:** A building in which the primary use of the site is conducted. In Residential Districts, any dwelling shall be deemed the primary building on the site.

**BUILDING SETBACK LINE, FRONT:** A line delineating the minimum allowable distance between the street right-of-way and the front of a structure, within which no building or other structure shall be placed. The building setback line is parallel to the street right-of-way.

**BUILDING SITE:** A single parcel of land under one ownership occupied or intended to be occupied by a building or structure.

**CANOPY TREE:** A deciduous tree having a minimum mature height of thirty (30) feet and a minimum caliper of one (1) inch at the time of planting.

**CARETAKER LIVING QUARTERS:** A dwelling unit on the site of commercial or industrial use occupied by a guard or caretaker. Only one caretaker residence is permitted on a site.

**CEMETERY:** An open space for burial, entombment, inurnment, interment, cremation or funeral purposes.

**CERTIFICATE OF OCCUPANCY:** A certificate of occupancy or a certificate of inspection issued by the City at the completion of a building permit or change of use.

**CHANGE OF USE:** Change of the primary use or activity on a site.

**CITY:** The City of Belle Fourche, South Dakota.

**CLINIC:** See "Medical Office."

**CLUB or LODGE:** The use of a site for provision of meeting, recreational, or social facilities by a private or nonprofit association, primarily for use by members and guests. This use includes private social clubs and fraternal organizations. Accessory uses include: billiard halls; bars; and restaurants.

**COMMUNITY FACILITIES:** Community facilities are uses of a public or nonprofit nature that provide a local service to people of the community. Examples include: city government offices; libraries; museums; senior centers; historic and monument sites; public swimming pools; public fitness facilities; community gardens; and, public safety facilities, such as police, ambulance, and fire stations. Accessory uses include: offices; community meeting areas; parking areas; concessions; and, day care facilities.

**COMMUNITY GARDENS:** The use of a site for growing or harvesting food crops or ornamental crops on an agricultural basis, by a group of individuals for personal or group use, consumption or donation.

**COMPREHENSIVE PLAN:** The adopted Belle Fourche Comprehensive Plan.

**CONCENTRATED ANIMAL FEEDING OPERATION:** A lot or facility that stables or confines and feeds or maintains animals for a total of forty-five (45) days or more in a twelve- (12) month period and requires a permit from South Dakota Department of Environment and Natural Resources.

**COUNCIL:** The Common Council of Belle Fourche, South Dakota.

**DAY CARE CENTER:** A day care center provides day or evening care of two or more children or adults in need of supervision outside of their homes for a fee, not located in a family home. Examples include: child care centers; preschools; nursery schools; and senior day care programs. Accessory uses include: recreational facilities; parking areas; and offices.

**DAY CARE, FAMILY:** A person, firm, corporation, partnership, association and/or agents of any of them providing care and supervision of children from more than one unrelated family, in a family home, on a regular basis for part of a day as a supplement to regular parental care, without transfer of legal custody or placement for adoption. A family day care home may not care for and supervise more than twelve children at any one time including children under the age of six living in the home.

**DESIGN CAPACITY:** The maximum number of persons that can be accommodated at any one time with a reasonable degree of comfort, safety, and convenience.

**DETENTION FACILITIES:** The use of a site for the provision by a public agency of housing and care for legally confined individuals. Examples include: prisons, juvenile detention facilities; and halfway houses. Accessory uses include: recreation facilities; and offices.

**DEVELOP:** To construct or alter a structure or to make a physical change to the land.

**DEVELOPMENT:** All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.

**DISTILLERY:** An establishment where distilled liquors are manufactured.

**DISTRICT:** Any section of the City of Belle Fourche for which the regulations governing the use of land and development of buildings and other structures are uniform.

**DRIVE-THROUGH FACILITY:** A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through facilities also include facilities designed for the rapid servicing of vehicles where the driver may or may not remain in the vehicle. Examples are drive-up windows; gas pump islands, car wash facilities; and auto service facilities.

**DUPLEX RESIDENTIAL DWELLING:** The use of a site for two (2) dwelling units within a single building, which is site built or modular.

**DWELLING UNIT:** A building, or portion thereof, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people.

**EASEMENT:** A grant of rights by a property owner that allows other non-owners to use the owner's land for a specific purpose such as access or to locate utilities.

**EVERGREEN TREE:** An evergreen or conifer tree having a minimum mature height of twenty (20) feet and a minimum two (2) gallon container size or equivalent bare root ball at the time of planting.

**FAÇADE:** All the wall planes of a structure as seen from one side or view.

**FAMILY:** One or more persons related by blood, marriage, or adoption, or a group not to exceed five (5) persons none of whom are related by blood or marriage, occupying the premises and living as a nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use.

**FINANCIAL INSTITUTIONS:** The use of a site for the provision of financial and banking services. Examples include: banks; credit unions; savings and loan institutions; and loan and lending activities. Accessory uses include: parking areas; and amenities for the use of employees, such as cafeterias, exercise facilities, and child care.

**FLOOR AREA:** The sum of the gross floor area for each of the several stories under a roof, measured from the exterior limits or faces of a building or structure.

**FRONTAGE:** All the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersection street and the dead end of the street.

**GARAGE, PRIVATE:** An accessory building or a part of a main building used for storage purposes only for not more than three (3) automobiles, or for a number of automobiles which does not exceed two (2) times the number of families occupying the dwelling unit to which such garage is accessory, whichever number is the greater. Such space shall not be used for storage of more than one (1) commercial vehicle, which shall not exceed one and one-half (1½) tons rated capacity, per family living on the premises, and not to exceed two (2) spaces shall be rented to persons not residing on the premises for storage of noncommercial passenger vehicles only.

**GARDEN CENTER:** The use of a site for the sale of plants or related goods and services. Examples include: greenhouses; and nurseries. Accessory uses include: offices; parking areas; and, storage areas.

**GOLF COURSE:** A non-profit, public, or private facility upon which the game of golf is played. Accessory uses include: clubs or lodges; restaurants; bars; operation and maintenance facilities; offices; and parking areas.

**GOVERNING BODY:** The Common Council of the City of Belle Fourche.

**GRADE, ESTABLISHED:** The completed surfaces of lawns, walks, and roads brought to grade as shown on official plans or designs relating thereto.

**GRADE, STREET:** The officially established grade of the street upon which a lot fronts or in its absence the established grade of another street upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

**GROUP RESIDENTIAL DWELLING:** The use of a site for occupancy by a group of people who are not related, this includes boarding houses, dormitories, or resident services for people with disabilities, the elderly, or those undergoing rehabilitation. Accessory uses include parking areas for staff and residents and recreational facilities. Facilities for people who are under judicial detainment are not included in this definition, but in the Detention Facilities category.

**HEALTH DEPARTMENT:** The South Dakota Department of Health.

**HOME OCCUPATION:** A gainful occupation or profession conducted entirely within a dwelling unit by a member of the family residing within the dwelling unit. The home occupation shall be clearly incidental or secondary to the use of the home and shall not change the residential character of the property.

**HOME OCCUPATION, NON-CONFORMING:** A home occupation that does not meet the required site and impact standards and must be approved through the conditional use process.

**HOSPITAL:** An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient department, training facilities, central services facilities, cafeterias, and staff offices that are an integral part of the facilities.

**HOTEL:** The use of a site for the provision of rooms for temporary housing. Examples include: hotels; motels; and hostels. Accessory uses include: parking areas; restaurants; and recreation facilities.

**INDUSTRIAL TECHNOLOGY USES:** Businesses that are involved in technology production and development, such as biotechnology, software and hardware development, and electronics. Accessory uses included: offices; parking areas; employee amenities such as exercise amenities and child care; warehouses; and repair facilities.

**INDUSTRIAL USES, HEAVY:** Large-scale industrial operations that are capable of producing byproducts, such as smoke, odor, dust or noise discernible from beyond the property boundaries, and may require outdoor storage areas. Examples include, but are not limited to: the manufacturing, processing, or distillation of acid, asphalt, cement, concrete, explosives, paint, tar, or other related products; slaughter houses; crematoriums; refining; smelting; ore reduction; metal foundry or fabrication plant; lumber mills and wood products manufacturing; and, drop forge industries. Accessory uses included: offices; parking areas; employee amenities such as exercise amenities; warehouses; storage yards; repair facilities; and caretaker's quarters.

**INDUSTRIAL USES, LIGHT:** Manufacturing and production businesses are involved in manufacturing, processing, fabrication, packaging, or assembly of goods. Goods are generally not displayed or sold on site and few customers come to the site. Examples include: processing of food; breweries; distilleries; wineries; production of textile or apparel; production of rubber, leather, clay, plastic, stone, or glass materials or products; fabrication of metal products; the manufacture and maintenance of signs or light sheet metal products; cabinet-making and carpentry shops; video and audio recording studios; stone milling; and, manufacturing of small machinery, equipment, and instruments. Accessory uses include: offices; parking areas; employee amenities such as exercise amenities; warehouses; storage yards; repair facilities; and caretaker's quarters.

**KENNEL:** The use of a site for the boarding and care of four (4) or more dogs, cats, or similar small animals six (6) months of age and older. This use includes: boarding kennels; pet motels; and dog training centers.

**KIOSK:** A freestanding structure designed to allow drivers to remain in their motor vehicles while purchasing, receiving, or depositing goods or services.

**LIGHT AGRICULTURAL USES:** Accessory uses on a residential site including the keeping of horses and other equine, cattle, sheep, goats, and llamas including the breeding and training of such animals; raising of poultry, fowl, birds, rabbits, bees and other similar animals of comparable nature; and, raising crops.

**LIVESTOCK SALES:** A place of business where the public may consign livestock for sale by auction open to public bidding or sold on a commission basis. Does not include auction sales conducted in conjunction with a county fair or auction sales, or conducted by or for a person who owns said livestock on their premises.

**LOADING SPACE:** A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of a vehicle.

**LOT:** A parcel of land that is or may be occupied by a single main building and its accessory buildings or uses customarily incidental thereto, together with such yards or open spaces within the lot lines as may be required.

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

**LOT DEPTH:** The average horizontal distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.



**LOT, DOUBLE FRONTAGE:** A lot that runs through a block from street to street and that has two (2) nonintersecting sides abutting on two (2) or more streets.

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

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

**LOT LINE:** The lines bounding a lot as defined in this chapter.

**LOT LINE, FRONT:** In the case of an interior lot, the line separating the lot from the street, and in the case of a corner or double frontage lot, the line separating the lot from that street that is designate as the front street in the request for a building permit.

**LOT LINE, REAR:** The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than ten (10) feet long and wholly within the lot.

**LOT LINE, SIDE:** Any lot boundary line not a front lot line or a rear lot line.

**LOT WIDTH:** The width of a lot at the building setback line measured at right angles to its depth.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. A manufactured home is built to the Manufactured Home Construction and Safety Standards (HUD Code).

**MANUFACTURED HOME PARK:** A unified development of manufactured home spaces for rent or lease, including common areas and facilities for management, recreation, laundry and utility services, storage and similar services for the convenience of residents.

**MANUFACTURED HOME RESIDENTIAL DWELLING:** The use of a site for only one dwelling unit, which is a manufactured home.

**MANUFACTURED HOME SPACE:** A defined area within a manufactured home park that is designed for and designated as the location for a manufactured home and its accessory uses and structures.

**MEDICAL OR DENTAL LABORATORY:** A laboratory that specializes in the manufacturing of medical or dental products.

**MOBILE FOOD ESTABLISHMENT:** A licensed, mobile food unit that is temporarily parked where food items are sold to the general public.

**MOBILE HOME:** A portable unit, built prior to 1977, design and constructed to be towed on its own chassis, comprised of frame and wheels, and design to be connected to utilities for year round occupancy. A mobile home does not meet HUD Manufactured Home Construction and Safety Standards (HUD Code).

**MODULAR HOME:** A structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation on a building site. Modular homes are designed and constructed to International Residential Code standards. Mobile homes and manufactured dwelling units are not modular homes.

**MULCH:** A material such as bark or river rocks spread around or over a planting area.

**MULTI-FAMILY RESIDENTIAL DWELLING:** The use of a site for three (3) or more dwelling units within one (1) or more buildings, which is site built or modular building.

**NON-CONFORMING USE:** A building, structure or use of land existing at the time of enactment of the ordinance codified in this Title and that does not conform to the regulations of the district in which it is situated.

**NURSING HOME:** A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

**OIL & GAS TANK STORAGE FACILITY:** An industrial facility for the bulk storage of oil and gas products. This does not include oil and gas tanks that are accessory to operations on a site.

**OFFICE, ADMINISTRATIVE:** Administrative office uses are characterized by activities conducted in an office setting that focus on the provision of services. Examples include: offices of attorneys; accountants; software and internet content development; engineers; architects; financial businesses; real estate agents; government offices; graphic design; telecommunication service providers; data processing; television, radio, and internet service providers; and public utility offices. Accessory uses include: parking areas; amenities for the use of employees, such as cafeterias, exercise facilities, and child care.

**OFFICE, MEDICAL:** Medical office uses are characterized by the delivery of medical services in an office setting. Examples include: doctor's offices; dentist offices; urgent medical care facilities; and, blood collection facilities. Accessory uses include parking areas; and amenities for the use of employees, such as cafeterias, exercise facilities, and child care.

**ORNAMENTAL TREE:** A flowering or non-flowering deciduous tree having a maximum mature height of thirty (30) feet and a minimum caliper of two (2) inches at the time of planting.

**OVERLAY ZONING DISTRICT:** A zoning district that is imposed on one or more underlying base zoning districts that provides additional requirements and limitations beyond those required by the underlying base zoning district.

**OWNER:** An owner of record title to real property or a contract purchaser of real property of record, as shown on the latest assessment records of the Butte County Assessor. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the City a copy of a deed or contract of sale showing date, book, and page of recording.

**PARKING LOTS & GARAGES:** An off-street facility including parking spaces with adequate provision for drives and aisles for maneuvering and giving access, and for entrance and exit.

**PARKS & OPEN AREAS:** Parks and open areas are uses that are characterized by natural areas consisting mostly of vegetative landscaping and/or outdoor recreation facilities, such as: public parks; public square; playgrounds; recreational trails; community gardens; and nature preserves. Parks and open area uses tend to have few structures. Accessory uses include: parking; maintenance facilities; and concessions.

**PARKING SPACE:** An off-street space available for the parking of one motor vehicle.

**PERSONAL SERVICES:** The use of a site for the provision of periodic services of a personal nature. Examples include: beauty or barber shops; seamstress or tailor services; shoe repair shops; laundromats; dry cleaning pick-up station services; photographic studios; tanning salons; dance classes; martial arts classes; music classes; mortuaries; and animal grooming. Accessory uses may include: the storage of goods; offices; and parking areas.

**PLANNING AND ZONING COMMISSION:** The Belle Fourche Planning and Zoning Commission.

**PLAT:** A map, plan, or layout indicating the location and boundaries of individual properties.

**PORCH:** An open, non-enclosed structure on the outside of a building.

**POWER PLANT:** A facility that generates electricity from mechanical power produced by solar, gas, wind, hydrocarbons, water, or coal that is properly licensed or franchised by the authorities having jurisdiction.

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

**PUBLIC UTILITY:** Any person, firm, corporation, municipal department or board duly authorized to furnish and maintain installations for the supply of electricity, gas, steam, communication, transportation, or water to the public.

**RAILROAD FACILITIES:** The use of a site for the provision of railroad yards, equipment servicing facilities, or terminal facilities. Accessory uses may include: offices; employee facilities; storage areas; transload facilities; storage areas; rail car maintenance; and, repair facilities.

**RECREATION FACILITIES:** An indoor/outdoor area or facility used for social or recreational purposes, picnic areas, and play grounds. Accessory uses include: parking; maintenance facilities; and concessions.

**RECREATIONAL VEHICLE:** A portable or mobile living unit in which the wheels cannot be removed, unlike a manufactured home, used for human occupancy away from the principal place of residence of the occupants.

**RECREATIONAL VEHICLE PARK:** A commercial use where one or more lots are rented to users of recreational vehicles or tents that are occupied for temporary purposes. There is no minimum required stay in a recreational vehicle park; however, the maximum stay is one hundred and eighty 180 days.

**RECREATIONAL VEHICLE SPACE:** The area within a recreational vehicle park designated for one recreational vehicle

**RELIGIOUS INSTITUTIONS:** Religious institutions provide meeting areas for religious activities, such as churches, temples, synagogues, and mosques. Accessory uses include: Sunday school facilities; caretaker's housing; convents and monasteries; housing for clergy; and child care centers.

**RESIDENTIAL ACCESSORY USES:** Uses customarily incidental to the principal residential use established on the same lot, such as shelter to house animal pets, children's play house and playground equipment, incinerator, private greenhouse and gardens, private garage and carport, private swimming pool and bathhouse, and shed for the storage of maintenance or recreation equipment used on the premises. The accessory use must serve the primary use on the site and remain subordinate in area, extent and purpose to such principal use.

**RESOURCE EXTRACTION USE:** The development or extraction of a mineral from its natural occurrence on affected land. Examples include the mining of minerals such as stone, sand, gravel, clay, and coal.

**RESTAURANTS, DRIVE-THROUGH:** An establishment that provides the sale and service of food or beverages for the ready consumption within the establishment or via a drive-thru window. Accessory uses may include: parking areas.

**RESTAURANTS, WITHOUT DRIVE-THROUGH:** An establishment that provides the sale and service of food or beverages for the ready consumption within the establishment. Accessory uses may include: parking areas and bars.

**RETAIL SALES & SERVICE:** Retail sales and services businesses are involved in the sale or lease of products to the general public. Examples include: stores selling, leasing, or renting consumer, home and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, jewelry, pets, pet food, pharmaceuticals, plants, printed material, videos, and food sales. Accessory uses may include: the storage of goods; parking areas; and offices.

**RODEO & FAIR GROUNDS:** An area dedicated for activities associated with fairs, rodeos, or other amusements that are conducted in a stadium or other public assembly facility that is designed to accommodate such events. Accessory uses may include: concessions; restaurants; parking areas; stables; barns; and maintenance facilities.

**SCHOOL:** A school is a private or public institution of education, which provides instruction at the elementary, middle, high school, or post-secondary level. Accessory uses include: play areas; cafeterias; recreational and sport facilities; athletic fields; auditoriums; and before and after-school child care facilities.

**SEALED SURFACE CONSTRUCTION:** Sealed surface construction shall consist of Portland cement concrete, asphalt, or another material approved by the City of Belle Fourche.

**SELF-SERVICE STORAGE FACILITIES:** Self-service storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property. Examples include: self-storage warehouse and mini-storage facilities. Accessory uses may include: caretakers living quarters; and parking areas.

**SERVICE AREA, DRIVE THROUGH FACILITY:** The service area is where the service occurs. In uses with service windows, the service area starts at the service window. In uses where the service occurs indoors, such as a car wash or oil-changing business, the service area is the area within the building where the service occurs. For other development, such as gas pumps, the service area is the area where the vehicle is parked during the service.

**SETBACK:** A distance necessary to obtain the minimum front, side, corner and rear yards required in this Title.

**SETBACK, CORNER:** A required side setback on the street side of a corner lot measured from the nearest point on the side property line bounding the street.

**SEXUALLY-ORIENTED BUSINESS:** An adult live entertainment establishment, adults-only bookstore, adult novelty store, adult video store, or adults-only motion picture theater where the inventory, merchandise, or performances are characterized by a preponderance of nudity, sexual conduct, sadomasochistic abuse, and/or sexual excitement.

**SHRUB:** A deciduous or evergreen plant having a minimum height of eighteen (18) inches at the time of planting, with a maximum mature height of less than ten (10) feet.

**SHOOTING RANGE:** An area provided with targets for the controlled practice of shooting.

**SHOPPING CENTER:** A unified grouping of retail stores and offices within one building, which are planned and developed as an operating unit. The shopping center may be developed on a single lot or separate lots.

**SINGLE-FAMILY ATTACHED RESIDENTIAL DWELLING:** The use of a site for two or more dwelling units, each located on a separate lot that are constructed with common or abutting walls, which are site built.

**SINGLE-FAMILY DETACHED RESIDENTIAL DWELLING:** The use of a site for only one dwelling unit, which is site built or a modular home.

**STABLES:** The use of a site for boarding, breeding or raising of horses not owned by the occupants of the premises.

**STACKING LANES:** The stacking lanes are the space occupied by vehicles queuing for the service to be provided.

**STORY:** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

**STREET:** A public or private thoroughfare which affords the principal means of access to abutting property.

**STREET LINE:** The legal line between the street right-of-way and abutting property.

**STRUCTURE:** A combination of materials to form a construction that is safe and stable and includes among other things stadiums, platforms, radio and television towers, sheds, storage bins, fences and display signs.

**STUDENT HOUSING:** A building which contains dwelling units by two or more students who are not related by blood, adoption, or marriage.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, rehabilitation, addition, or improvement of a structure or development, the cost of which equals or exceeds fifty (50) percent of the market value of the structure or development, or increases the floor area of the structure or the area of the development by fifty (50) percent or more.

**SUPPORT HOUSING:** The use of a site for living accommodations by agricultural employees or their families.

**TASTING ROOM:** A space associated with and on the same premises as a brewery, distillery, or winery at which guests may sample the manufacturer's products and consume other nonalcoholic beverages.

**TEMPORARY USES:** A temporary use is a use that is established for a fixed period of time.

**UNIFORM BUILDING CODE:** The Uniform Building Code as published by the International Conference of Building Officials.

**USE:** The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

**UTILITY SUBSTATION:** The major structure owned or operated by a public, private or cooperative electric, fuel, or communications company for the generation, transmission, distribution or processing of its products.

**VEHICLE SALES & RENTALS:** Buildings and premises for the sale, rental, and ancillary service of vehicles such as automobiles, motorcycles, and boats. Accessory uses include: offices; parts sales; vehicle repair; vehicle storage; and, parking areas.

**VEHICLE SERVICE & REPAIR ESTABLISHMENTS:** Vehicle service and repair uses provide servicing for passenger vehicles, trucks, motorcycles, boats, and recreational vehicles. Examples include: gasoline service stations; auto mechanic shops; transmission or muffler shops; auto body shops; tire sales and mounting businesses; oil change businesses; auto detailing; and, self-service automobile washing businesses. Accessory uses include: offices; parts sales; vehicle storage; and, parking areas.

**VETERINARY CLINIC:** The use of a site for provision of veterinary services for animals. This use includes pet clinics, and dog and cat hospitals.

**WALKWAY:** A path or area for pedestrians.

**WAREHOUSE & FREIGHT MOVEMENT FACILITIES:** Warehouse and freight movement businesses are involved in the storage or movement of goods. There is little onsite sales activity. Examples include: general freight storage; parcel services; stockpiling of aggregate material; pipe storage; equipment storage; and storage of weapons or ammunition. Accessory uses may include: offices; parking areas; fleet parking and maintenance areas; rail spur or lead lines; and repackaging of goods.

**WASTE-RELATED FACILITIES:** Waste-related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods from the biological decomposition of organic material. Examples include: landfills; sewer treatment plants; recycling operations; junk and salvage yards; automobile wrecking; and hazardous waste collection sites. Accessory uses include: recycling of materials; offices; parking areas; and repackaging and shipment of by-products.

**WHOLESALE SALES:** Wholesale sales businesses are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. Business may or may not be open to the general public, but sales to the general public are often limited. Examples include: wholesale or rental of machinery; equipment & heavy trucks; wholesale building materials, special trade tools, machine parts, electrical supplies, janitorial supplies, and restaurant supplies; and wholesale food, clothing, building hardware, and office supplies. Accessory uses include: offices; product repair; warehouses; parking areas; and repackaging of goods.

**WIND ENERGY CONVERSION SYSTEM:** A mechanism or device constructed for the purpose of converting wind energy into electrical or mechanical power.

**WINERY:** An establishment where vinous liquors are manufactured.

**WIRELESS TELECOMMUNICATION FACILITIES:** Any unmanned facility, including all devices, machinery, structures, or supporting elements necessary to provide wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communication service (PCS), and paging service.

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

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

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

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